



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday April 26, 2011, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

- 1.0 **Call to Order - Procedural Matters**
- 2.0 **Planning Commission Minutes** – Motion Needed
 - 2.1 February 8, 2011
 - 2.2 February 22, 2011
- 3.0 **Information Items**
- 4.0 **Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 **Worksession Items**
 - 5.1 Summary: Wastewater Master Plan (20 minutes)
Presenters: Ryan Marquardt, Jason Rice
- 6.0 **Public Hearings** – Public hearings will follow the procedure listed on reverse
 - 6.1 Summary: Johnson Creek Confluence Restoration Project
Applicant/Owner: Johnson Creek Watershed Council (JCWC)/City of Milwaukie
Address: Johnson Creek and 17th Ave to mouth of Willamette River
File: WQR-11-01
Staff Person: Ryan Marquardt
 - 6.2 Summary: Natural Resource Regulation Amendments (cont'd from 4/12/11)
Applicant/Owner: City of Milwaukie
File: ZA-11-01, CPA-11-01
Staff Person: Brett Kelter
- 7.0 **Planning Department Other Business/Updates**
 - 7.1 Kellogg Bridge – Responses to questions from 3/17 meeting
- 8.0 **Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 **Forecast for Future Meetings:**
 - May 10, 2011
 - 1. Other Business/Updates: Team-building Training
 - 2. Other Business/Updates: Residential Standards Project Update
 - May 24, 2011
 - 1. Public Hearing: North Clackamas Park North Side Master Plan cont'd – *tentative*
 - 2. Public Hearing: Wastewater Master Plan

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Jeff Klein, Chair
Nick Harris, Vice Chair
Lisa Batey
Scott Churchill
Chris Wilson
Mark Gamba

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Senior Planner
Brett Kelter, Associate Planner
Ryan Marquardt, Associate Planner
Li Alligood, Assistant Planner
Alicia Stoutenburg, Administrative Specialist II
Paula Pinyerd, Hearings Reporter

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 8, 2011
6:30 PM

COMMISSIONERS PRESENT

Jeff Klein, Chair
 Nick Harris, Vice Chair
 Lisa Batey
 Chris Wilson
 Mark Gamba

STAFF PRESENT

Katie Mangle, Planning Director
 Susan Shanks, Senior Planner
 Ryan Marquardt, Associate Planner
 Damien Hall, City Attorney

COMMISSIONERS ABSENT

Scott Churchill

1.0 Call to Order – Procedural Matters

Chair Jeff Klein called the meeting to order at 6:34 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes – None.

3.0 Information Items

Katie Mangle, Planning Director, explained they had begun the process of upgrading the recording system at City Hall which would much more easily and seamlessly allow for the digital audio recording of the meetings. The next phase would be replacing the microphones.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Land Use and Development Review Tune-Up Code Amendments

continued from 1/25/11

Applicant: City of Milwaukie

File: ZA-10-02, CPA-10-03

Staff Person: Susan Shanks

Chair Klein called the hearing for ZA-10-02 and CPA-10-03 to order.

42 **Susan Shanks, Senior Planner**, presented the staff update on the continued hearing,
43 reviewing the materials distributed to the Planning Commission as well as the attached exhibits
44 as follows:

- 45 • The draft ordinance, which included attached Exhibits A, B, and C, was the clean version
46 incorporating all the comments made by the Commission at the last hearing as well as
47 staff's suggestions for changes. If the Commission decided to act on the package, this could
48 be adopted without having to read any modifications into the record. Exhibit D, the clean,
49 300-page version of the Code, was not attached, but reflected all the changes already
50 incorporated in Exhibit C. A hard copy of Exhibit D was available for review.
- 51 • The packet with the goldenrod paper was informational, providing a compare document
52 showing all the changes made between the package presented on January 25 and tonight's
53 package. The key changes incorporated changes from prior discussion regarding story
54 poles, sign postings, and splitting the Type IV legislative process back into separate major
55 quasi-judicial and legislative processes.
- 56 • Attachment 3, 5.1, Page 6 of the packet, noted additional language incorporated about sign
57 posting and story poles based on the City Attorney's advice at the last hearing.
- 58 • She summarized the conversations she had after the hearing with Christopher Burkett and
59 Jean Baker, two testifiers at the last hearing.
 - 60 • Mr. Burkett was concerned specifically with nonconforming uses. Generally, he felt the
61 proposed amortization process was a slippery slope, not that the current language was
62 written too broadly necessarily. Through discussion, she clarified that the amortization
63 proposal only applied to nonconforming uses. He was aware of the delicate balance of
64 the City's regulatory authority with private property rights, and the differing opinions often
65 involved. He supported the Code being more flexible and giving decision makers more
66 discretion where appropriate. He was very pleased with the proposed amendments
67 regarding the variance process.
 - 68 • The signage proposal to have applicants post notice was further discussed with Ms.
69 Baker, as well as the proposed Code with regard to public involvement policies.
70 Attachment 1, 5.1 Page 4, was a chart that compared the City's current public
71 involvement policies with policies in the Code amendment package.
 - 72 • The current practice of referring applications to the Neighborhood District
73 Associations (NDAs) as well as other agencies soon after the application has been
74 deemed complete was being codified. Another distinct change was getting away

75 from doing only a required newspaper notice for many projects or applications, but to
76 try to use other means to get the word out, such as better and more signage.

77 • Ms. Baker was frustrated that she did not have more time for review given the significant
78 number of pages to review for this project. A document was provided in the packet that
79 laid out all the different ways staff tried to get people aware of this project early in the
80 process and how different types of public involvement strategies were implemented,
81 such as attending NDA meetings, emailing NDA people, posting on the website, and
82 using community connections. The Measure 56 notice was also done, a direct mailing
83 done at substantial cost to the City, which was not required based on the nature of the
84 proposed changes. Very few calls were received from that mailing.

85 • She concluded that no new written comments had been received since the last hearing.

86

87 **Chair Klein** called for public testimony in favor of, opposed, and neutral to the application.

88

89 **Jean Baker, 2607 SE Monroe, Milwaukie** stated she wanted to amend and extend her
90 remarks from the last meeting as she had several questions.

91 • She offered a document she believed was circulated everywhere as notice that stated
92 “codifies existing NDA referral process” and asked where that Code language was found.

93

94 **Ms. Shanks** replied it could be found in the Review Procedure Chapter 19.1000. Each of the
95 review types talked about a very specific referral process that was not currently in the Code.
96 Now, stated under each review type was, “seven days after an application is deemed complete,
97 refer it to ...” x, y and z, which recognizes official NDA Chairs and Land Use Committee (LUCs)
98 members.

99

100 **Ms. Baker** responded that she had hoped they would have come up with something more
101 substantive, instead of landing on NDA members that may or may not respond or understand.

102 • She had asked for her NDA’s contact information and all she received was the one-sheet
103 document.

104 • She said she was having trouble keeping up with the changes. She loved the chart
105 (Attachment 1, 5.1 Page 4), but it would have been more helpful to extend out There
106 seemed to be a flip from Types I, II, III, IV and V to quasi-judicial and legislative, which did
107 not come back and fit into Types I through V very well. It was not clear where certain things

108 fit. She suggested having an extension of the chart that stipulated what was considered a
109 Type I review, for example. When it got to legislative and quasi-judicial discussions, there
110 was no further discussion about Types I through V.

- 111 • She understood which were legislative, but there were so many categories that it was hard
112 do decipher which types were strictly legislative or major or minor quasi-judicial. It needed to
113 be put in such a succinct manner that people could look and understand which type the
114 review process fit into to.

115

116 **Ms. Shanks** believed the changes could be made. Information could be extracted from Code
117 language at the beginning of each review type that identifies the action category and put in
118 another attachment as a different table.

119

120 **Ms. Baker** agreed that would be helpful. Providing such a visual aide would shorten the
121 information access time and prevent much confusion.

- 122 • She apologized for assuming that the critical damage to the citizen participation program
123 came from the Planning Department. She believed the Planning Department was in fact
124 improving citizen participation; however, they could not force citizens to become involved.
- 125 • She was only disappointed in the Type V, which she understood to be legislative and for
126 large zone changes. She had assumed public notice was required for all public meetings, as
127 it always had been, and had not foreseen that would change. However, someone had
128 changed the public notice requirements, but it was not the Planning Department. She knew
129 the date of meeting, but not the time or location.
- 130 • After the last meeting, she called the City Manager and asked for a do-over on a
131 procedural error. One of the questions he asked was if she mentioned her objection in
132 the hearing, and she responded 'yes.' He then asked if it was required in the ordinance,
133 but it was not. After some research, she learned there was a quiet, subtle movement to
134 eliminate public hearings and make citizen participation more challenging. This trend
135 was being challenged and reversed.
- 136 • She learned that she was not entitled to the notice she received on the Type V or any
137 further information. All the information she had obtained was at the generosity of the City
138 and at the Planning Director's discretion.

139

140 **Chair Klein** stated there were 22,000 citizens in the city and 9,000 structures such as
141 residences which would be a large and expensive mailing. There were a number of avenues in
142 which the information was made available.

143

144 **Ms. Baker** explained that her complaints were too much discretion, not enough required notice
145 and how notice was given for legislative review.

- 146 • A large zoning change on a legislative change would be a discretionary notice. Public notice
147 30 days before each hearing was good, but the question was how citizens would be notified.
- 148 • As written, there was no requirement to include a time, date, and place. When notice was
149 sent, usable, pertinent, and complete information about the hearing should be included.

150

151 **Commissioner Batey** stated that was a standard part of the notices. The information received
152 from Ms. Baker's NDA must have only been part of what the NDA received.

153

154 **Ms. Mangle** stated the current Code did not contain that, but the proposed Code did. Page 66
155 of 82 of the white packet version of the proposed Code listed specifically what was required to
156 be included in the 30-day notice, specifically date, time, location of the hearing, case file
157 number, and map of the properties impacted.

158

159 **Ms. Baker** responded that was good and withdrew that objection.

160

161 **Ms. Shanks** explained the Measure 56 notice that was sent out lacked certain information,
162 because the ORS requirement only specified that the day of the hearing, not the time and
163 location, had to be included, so she had been following that statute and previous templates. She
164 wished she had included the time and location, but the staff contact information was provided as
165 well. The new Code actually required the additional information, beyond the State statute
166 requirements. Signage was slightly different than an actual mailed notice. Signage did not have
167 that specific language in the Code, but additional language was added that the Planning
168 Director would adopt administrative standards for what should go on signage. The current signs
169 were 11 x 17, but they were trying to improve the signage requirements to make them bigger.

170

171 **Ms. Baker** emphasized that the signs needed to state the place and time when an issue would
172 be heard. Anything less than that from the City was just not fair.

- 173 • **Ms. Shanks** responded that was something for the Commission to consider based on the
174 additional language added to the sign notification requirement that the applicants would
175 have to do. This could be something included in the administrative standards, or potentially
176 codified as part of the signage information. The current signs, because of the size, currently
177 included the date and staff contact information. With the bigger sign requirement, more
178 information could be included.
- 179 • **Ms. Mangle** stated the Commission could amend the proposal to require that additional
180 information on the signs.

181

182 **Chair Klein:**

- 183 • Stated that when a person came into the Commission to be heard, they should be informed
184 about the issue and receive a packet of information from staff. The date and time were
185 important, but the most important information was the contact information for staff.
- 186 • **Ms. Baker** agreed, but the where and when were critically important as well.
- 187 • Responded they now had bigger signs and would address that to include the date and the
188 time.

189

190 **Commissioner Batey** stated that Table 5 on Attachment 1 seemed to show a lot of Planning
191 Director discretion. Type V was probably difficult to draft because it encompassed the big
192 zoning change, map changes, and the legislative amendment. She clarified that the words “at
193 Planning Director’s discretion” meant it was at their discretion to go beyond what was required
194 by Measure 56 or by notice to the people within 400 ft.

- 195 • **Ms. Shanks** replied that it depended on the type of proposal. A map change with a
196 geographic location had different rules than a legislative change and did not specifically
197 apply to any one project or property, but could apply to the whole city in some way or
198 another. Legislative projects were quite variable, ranging from map changes to Code
199 changes to housekeeping changes.
- 200 • **Damien Hall, City Attorney**, confirmed that if the City tried to do something without the
201 notice required by Measure 56, the citizens would have recourse to challenge. If there was a
202 procedural error, it could be appealed. If it was demonstrated to the Land Use Board of
203 Appeals (LUBA) that one was prejudiced by the City’s procedural error, it would be
204 remanded back to the City where the process would have to be restarted. He confirmed it

205 would have to go to LUBA which could cost thousands of dollars, or if there was an appeal
206 at the local level, something similar could happen.

207

208 **Ms. Baker** noted that on a Type V appeal to LUBA, the language did not state “or” but only that
209 appeals were to LUBA.

210 • **Ms. Shanks** stated if there was a procedural error of which the City became aware, the City
211 would want to rectify that as they had done in the past by delaying hearings or publishing
212 additional notice.

213 • **Ms. Mangle** clarified that the Measure 56 notice was a separate category of notice than a
214 newspaper notice or a mailed notice to property owners. It had very specific requirements
215 about the language used and how it was done. Not all legislative amendments actually
216 required a Measure 56. The City went above and beyond the noticing requirements.

217

218 **Ms. Baker** stated with so many rewrites and amendments, it was hard to tell what had survived;
219 it seemed that there was additional information.

220 • **Ms. Shanks** confirmed that nothing had changed in Table 5 since she had provided the
221 draft Code last Friday.

222

223 **Ms. Baker** said it was still unclear as to what was at the Planning Director’s discretion.

224

225 **Chair Klein** explained the proposed requirements were in addition to the ORS requirements.
226 There were already required notices, but the proposal stated that the Planning Director also had
227 the ability to institute more than what was required.

228

229 **Ms. Baker** remembered that Commissioner Gamba stating at the last meeting that there may
230 be different personnel involved down the road. A minimum should be stated as opposed to just
231 “at the discretion of the Planning Director.”

232 • **Ms. Mangle** explained that the Table 5 was about public information, but the actual Code
233 did contain minimums. The general public notice for Type V applications on page 66 tried to
234 set a clear expectation that the Planning Director shall provide opportunities for public
235 review at early stage in the adoption [process, and then it listed some examples of how that
236 could happen. While that was not a minimum, the second one stated, “at least 30 days ... at

237 a minimum the notice shall be available on the City website and at City facilities.” She
238 invited Ms. Baker to offer any specific additions.

239

240 **Ms. Baker** hoped the Commission realized that very few people in the city had cable Channel
241 30. *The Pilot* was an underutilized resource for better information. She considered it more as a
242 bulletin without much substance. Another piece of paper with more information could be sent
243 with the large *Pilot* mailing once a month. She had tried to get *The Pilot* to include information
244 about programs for the poor and land use announcements but they would not.

245

246 **Chair Klein** stated the question was how to send the packet of information out to the 9,000
247 homes and 22,000 people that lived in Milwaukie. He agreed *The Pilot* was underutilized and
248 crammed for space. The City had been trying to get information to citizens and get them to
249 become involved. The City had limited resources. The cost of the mailing recently sent out cost
250 \$4,000 and four people showed up. Only about 4% of the population read *The Pilot*. Planning
251 Commission and City Council met on alternating weeks, so that was four mailings that could go
252 out every month at \$4,000 per mailing.

253

254 **Ms. Baker** suggested enough lead time existed for the meetings to get one piece of paper with
255 the information included in *The Pilot* mailing. Although, the Community Connection website sent
256 out information once a week and could be used for neighborhood notices a month prior, many
257 people did not use the Internet. There were some things that could change that would not cost
258 anything or very little.

259

260 **Chair Klein** reiterated the challenge was figuring out how to reach a mass audience. They had
261 sent information to every single household and only four people showed up, and he was glad to
262 have four people.

263

264 **Ms. Baker** replied the information that went out did not reflect what was really going on and did
265 not connect. She suggested enlisting the help of graphic artists or another committee to get
266 some points across clearly to the citizens. She wanted to know what the City was doing to
267 stimulate NDAs and other groups to go beyond what they were doing.

268 • **Ms. Shanks** stated the information Ms. Baker received from the NDA was not the complete
269 package provided to the NDA. The one-sheet document was provided to her out of context.

270

271 **Chair Klein** stated the hardest part was getting people to plug in. The City was working to get
272 people better informed, but there came a time when the cost and time necessary had to be
273 weighed and considered.

274
275 **Ms. Baker** stated they lost so much when Milwaukie lost the community newspaper, but people
276 could still be inspired. They needed to find out what other cities like Portland were doing to get
277 people involved.

- 278 • She summarized the areas that needed to be addressed were what information was
279 conveyed, the vehicle used to convey the information and a better explanation of discretion.
- 280 • Also, she had not heard of plans, documents, bills, and ordinances being corrected after
281 being adopted. She asked what kind of amending and correcting could be done legally after
282 the amendments were adopted.

283
284 **Commissioner Batey** explained the Commission could only make a recommendation to
285 Council. Once enacted by Council, it could not be changed.

- 286 • **Mr. Hall** added that up until being adopted by Council, changes by direction of the
287 Commission or Council were permitted. As with all legislative action, the stopping place was
288 adoption by Council. Once adopted and all the appeal periods had expired and the action
289 was final, an ordinance would be required to amend it.
- 290 • **Ms. Shanks** stated that it would require this review process all over again.
- 291 • **Ms. Mangle** added that Council would hold a public hearing and take comment; this was all
292 part of the public involvement process.

293
294 **Ms. Shanks** summarized that Ms. Baker wanted her to do another public information piece
295 further describing the different types of applications, as well as what was administrative versus
296 quasi-judicial versus legislative and also to amend the sign posting requirements to add date
297 and time.

- 298 • **Ms. Mangle** added staff should also look at the Type V boxes in Table 5 to better clarify
299 Planning Director discretion.

300
301 **Chair Klein** stated it was important to stress that people need to contact staff in order to be
302 educated about what would be happening before coming to a hearing. He agreed it was

303 important to add the place of the hearing, but it was very important that that was secondary to
304 contacting staff.

- 305 • **Ms. Shanks** added one reason time could be a bit tricky was because the agenda had a
306 number of items on it, and the item people came to provide input on could be called at a
307 much later time than the start of the meeting.

308

309 **Chair Klein** pointed out the City had a website with the information. Those without Internet
310 access could access computers at no charge at the library.

311

312 **Ms. Mangle** stated *The Pilot* had a City calendar with the meeting dates and times.

- 313 • **Ms. Baker** noted the tiny calendar was a problem for people with poor eyesight. She
314 suggested the City have a recorded line with the information

315

316 **Mr. Hall** noted the important take away was that the proposed Code did not limit the methods
317 the City could use to deliver notice. It was a discussion to be had on the most effective way to
318 deliver notice, but that discussion was in no way curtailed by the proposed Code.

319

320 **Ms. Baker** said she wanted to get input from the NDAs about what notice they wanted.

- 321 • **Chair Klein** suggested talking to Ray Bryan of Ms. Baker's NDA Land Use Committee.
- 322 • **Mr. Hall** directed staff to ensure Ms. Baker got the contact information for the NDAs.

323

324 **Ms. Baker** suggested the Commission recommend a focus group work together to discuss
325 notice, small print issues, computer use, cable access, etc. This was how citizen participation
326 was achieved and she did not feel the City was using its resources to get the best results.

327

328 **Chair Klein** reiterated that at a recent meeting four people attended, the City sent letters to
329 everyone, it was published in *The Pilot* and sent by e-mail, and only two people actually
330 testified.

331

332 **Ms. Mangle** stated the new City Manager was very focused on communication. Information
333 Officer Grady Wheeler was spending a lot of time on the issue and she agreed to put him in
334 touch with Ms. Baker.

335

336 **Chair Klein** added that if a decision was made tonight, it would be forwarded to Council where
337 Ms. Baker would have an opportunity to testify.

338

339 **Ms. Mangle** clarified that the next issue scheduled for public hearing would be the Natural
340 Resource Overlay Project. The update of the Residential Development Standards would be a
341 very broad public involvement process. She welcomed Ms. Baker's involvement on both issues.

342

343 There was no further public comment.

344

345 **Ms. Shanks** confirmed that staff would add the hearing location to the signage as well as the
346 date and time. She requested that in creating the language for the new sign posting
347 requirement, the language be put in one place and have each review type reference the
348 language, rather than it being repeated throughout the Code. No content change was proposed.

349

350 **Chair Klein** stated he had taken a quick poll and confirmed that what was proposed in the
351 goldenrod document looked good.

352

353 **Chair Klein** closed the public testimony on ZA-10-02 and CPA-10-03 at 7:35 p.m. and called for
354 discussion.

355

356 Planning Commission Discussion

357

358 **Commissioner Gamba** stated he supported the proposal given the couple of small changes
359 discussed.

360

361 **Commissioner Batey** understood Mr. Burkett's comments about the amortization being a
362 slippery slope; however, it was very well written in her opinion. Council would have a very
363 difficult time following that tenet, even if amortization were needed, so it was a good tool to have
364 in the City's arsenal. She believed staff should be commended for their public outreach. She
365 realized Ms. Baker only learned of the hearing late in the game, but acknowledged the City had
366 done a lot to get the word out. She agreed *The Pilot* could be better used. The Police Chief's
367 Corner was a good addition to *The Pilot*, and she suggested perhaps including a Planning
368 Director's Corner when big issues came up, such as the Residential Design Standards.
369 Otherwise, she was pleased with the package and would vote to recommend moving it forward.

370

371 **Commissioner Wilson** was also happy with the proposal. He thanked staff for their efforts and
372 Ms. Baker for her opinions. He also thanked staff for meeting with Ms. Baker the past week and
373 considering what she had to say.

374

375 **Vice Chair Harris** shared the concerns regarding the amortization; however, based on his
376 research, it would be difficult to abuse it. He saw no reason not to move forward.

377

378 **Chair Klein** agreed. He understood Ms. Baker's concerns coming late into the game. The City
379 may need to look at its filters and perhaps do better training with the NDAs so they have a better
380 understanding of their responsibilities. The NDAs might need to do a better job of understanding
381 the information being requested of them. He suggested the City may need to do more outreach
382 to the NDAs. As far as outreach, this project probably had one of the biggest public outreach
383 efforts conducted by the City. Without a doubt, this was ready to move forward to Council.

384

385 **Commissioner Batey moved to recommend that City Council adopt the package in file**
386 **number ZA-10-02 and CPA-10-03 proposing amendments to the Milwaukie**
387 **Comprehensive Plan and Municipal Code, specifically Exhibits B, C, and D with the**
388 **amendments discussed pertaining to the Code provisions dealing with signage.**

389 **Commissioner Gamba seconded the motion, which passed unanimously.**

390

391 **Ms. Shanks** stated the applications would go to Council on either March 1 or March 15, 2011.
392 She said that she would let Ms. Baker know what date was determined.

393

394 The Commission took a brief recess and reconvened at 7:50 p.m.

395

396 **6.0 Worksession Items**

397 6.1 Summary: Sign Code Amendments discussion (Review of amendments drafted
398 by Jim Crawford)

399 Staff Person: Ryan Marquardt

400 **Ryan Marquardt, Associate Planner**, stated that since the meeting packet was distributed to
401 the Commission, there had been further occurrences with regard to sign illumination and
402 standards so tonight's discussion would be broadened. Issues to be discussed in the
403 worksession would include:

- 404 • Readerboard signage downtown, specifically with regard to a continuation of the appeal
405 last October about the signage at the '76 Station. The Commission had requested that
406 the applicant/property owner return with some Sign Code amendments, which were in
407 the packet.
- 408 • He noted 6.1 Page 8 of the packet had a picture of the '76 sign, stating it was
409 actually about 20%. It was 12.5 sq ft of reader area, and the overall size was about
410 63.5 sq ft.
- 411 • The City's overall sign illumination standards, which were outdated, and the types of
412 technologies that could be used.
- 413 • Illuminated billboards with regard to appropriate locations and restrictions on the display,
414 including moving or changing aspects as well as overall brightness.
- 415 • Appropriateness of content regarding off premise advertising; should the City regulate
416 whether or not something was a billboard advertisement or just a large sign for a
417 particular property?
- 418 • He first requested feedback from the Commission regarding Mr. Crawford's proposed Code
419 amendments regarding downtown readerboard signage.

420

421 **Commissioner Gamba** was concerned about one part that stated that either conventional or
422 LED bulbs could be used and be visible. One reason he was willing to support a proposal like
423 this was because of the electric savings, and those wanting to move in this direction should use
424 the latest technology and not be permitted to use conventional bulbs. Other than that, he was
425 happy with the proposal.

426

427 **Commissioner Batey** asked if all the existing signs downtown fit within the 20 sq ft and 25%t
428 display requirements.

429

430 Staff was not certain and deferred to Mr. Crawford.

431

432 **Jim Crawford**, representing Mr. Kanson, stated the '76 sign portion that was LED and 12.5 sq ft,
433 which was about 23% of the total sign. Overall, the sign was about 55 sq ft. Based on frontage,
434 the current Code allowed a much bigger sign. The proposal recommended a square footage
435 and a percentage to provide a cap on total signage either way. He had heard interest in a
436 reasonable amount of LED illumination for display.

437

438 **Chair Klein** said he liked the '76 sign because of its ease of use. He had seen someone
439 changing the sign at the other '76 station while traffic was speeding by. The '76 sign would be
440 static and would only change when gas prices changed. Items on pages 9 and 10, which
441 discussed sign content being mobile, changing, or flashing, became a big deterrent for his
442 support. Content that changed every 10 seconds was fine, but not when it scrolled through. The
443 proposed '76 sign was exactly what he wanted.

444

445 **Commissioner Batey** noted that everyone violated the 10-second change rule when they
446 started until the rule was enforced.

447

448 **Commissioner Wilson** asked if the same 20% tolerance would work in the future when the City
449 wanted to encourage businesses, like fuel stations, to use the small pedestal signs.

450

451 **Mr. Crawford** responded the sign could be done in a slightly different configuration as a
452 monument sign with the same sign area with the '76 emblem and the pricing adjacent to it,
453 turned sideways and built into a ground mounted sign. One downside of a monument sign on
454 the south side of a property on a northbound street was vision clearance issues. Currently, with
455 the legs and the sign being 7.5 ft up in the air, people could see through the airspace in
456 between the poles without having to roll out into the sidewalk in order to see up McLoughlin
457 Blvd. A monument sign at that location would have to be moved to the north side of the property
458 because of visibility, but then the driveway coming out on the next property would have the
459 same problem. Driveways have been eliminated on the state highways as ODOT has tried to
460 limit the number of accesses. The sight lines change slightly with accesses onto side streets
461 that then connect to the state highway due to setbacks from the right-of-way.

462

463 **Commissioner Batey** stated the Code called for that pole sign to become a monument sign by
464 the grandfathering date of 2013 or so.

- 465 • **Mr. Marquardt** clarified that properties along McLoughlin Blvd were allowed a pole sign
466 although they were not allowed in most other areas in the downtown sign district. The pole
467 portion of the '76 station sign was not nonconforming, although the height might be.

468

469 **Vice Chair Harris** suggested removing references to exposed bulbs or prohibiting exposed
470 incandescent bulbs to move toward LED use Section 6 (6.1 Page 4).

- 471 • **Commissioner Wilson** noted the point could be moot when incandescent bulbs are no
472 longer available.
- 473 • **Ms. Mangle** agreed the City's entire approach to regulating illumination was immature and
474 needed to be addressed.

475

476 **Commissioner Gamba:**

- 477 • Posited that the Thai restaurant could have a little readerboard with the daily lunch specials
478 that was 100% of the sign. Setting a percentage could cause the sign to be bigger to
479 accommodate the size of the readerboard message. He suggested allowing a readerboard
480 sign up to a certain size, and then require readerboards greater than that size to be
481 regulated by the percentage.
- 482 • **Ms. Mangle** noted if the goal was to control the illuminated aspect of the sign, why make
483 it relative to the size of the sign. She suggested focusing on just limiting the illuminated
484 portion as an actual measurement in MMC Section 14.16. Did it matter if the rest of the
485 sign was still pretty big?
- 486 • Believed limiting the illuminated portion would work. The concern was that if this proposal
487 was approved, the gas stations would be happy, but the law would also require a really big
488 sign for a restaurant wanting a little readerboard to advertise their lunch special. Why
489 require a really big sign just to put up a small readerboard?

490

491 **Commissioner Batey** believed a stand alone readerboard looked real bad. The provided
492 examples were good, but she noted that as the percentage of the sign that was readerboard got
493 bigger, the signs looked worse.

- 494 • **Ms. Mangle** commented it might encourage a bigger sign in total just to get a readerboard.

495

496 **Chair Klein** suggested that up to 6 sq ft of readerboard sign be allowed and after that going into
497 the percentage, such as the cap of 20%.

498

499 **Mr. Crawford** noted that no photograph was provided for a restaurant with a readerboard in the
500 window as a plug-in, unregulated sign. Staff clarified that window signs were exempt, and he
501 inquired whether such issues needed to be addressed. The language proposed to solve issues
502 for the '76 Station could affect other businesses. Language regarding the incandescent light
503 bulb was trying to get the credit union to be a conforming versus nonconforming sign if they had

504 a static display. Once the bulbs burnt out, they would need to replace the sign with LED or some
505 different technology for illumination.

506

507 **Commissioner Batey** stated that she did not like the idea of addressing these issues outside of
508 a bigger look at the Sign Code. There were too many problems.

509

510 **Commissioner Gamba** believed a lot of what was in the proposal was good language for the
511 entire city and not just McLoughlin Blvd downtown.

512

513 **Ms. Mangle** requested guidance from the Commission about some questions posed in the staff
514 report about the draft proposal 6.1 Page 2 Item C. C.6 was pretty critical because the
515 Commission was identified as the decision maker, yet no criteria had been specified. Depending
516 on the criteria or sensitivity, staff could craft something that was still just a regular sign permit if
517 it was all just about size and objective brightness. The Commission should decide generally, if it
518 needed to be a discretionary decision, why it would need to come to the Commission and if so,
519 what criteria should be included. She assumed Commission review had been included because
520 signage could be a sensitive issue, but was a public hearing necessary?

521

522 Discussion continued amongst the Commission and staff as follows:

- 523 • Having signage reviewed by some one (body) was a good idea. If the law required that
524 someone had to actually look at the sign and either approve or deny it, the City could avoid
525 issues not thought of yet. No one could have imagined 10, 15, or 20 years ago the sign now
526 installed in the North Industrial area.
- 527 • Criteria would be needed. It went back to the lowest common denominator and where
528 the bar was set.
- 529 • **Mr. Hall** suggested the approval criteria could state that the signage must be consistent with
530 the surrounding area or with the aesthetic purpose of the underlying zone. For discretionary
531 criteria to apply, an objective criterion was needed as an option. If a more contentious
532 element like LEDs were wanted, then the discretionary criteria would apply.
- 533 • If the signage came before the Commission for a discretionary decision, it would have to go
534 before the DLC prior to that. It would be better to tie the DLC in before the process so they
535 would at least have a review of the downtown area.

- 536 • Some kinds of signs already required going through DLC before coming to Commission,
537 and that could be used as a model.
- 538 • The DLC does get the referral for all applications in downtown, so they could discuss it
539 and provide comment without a formal additional step or meeting.
- 540 • Inevitably, the decision would come to Commission to decide whether or not it met the
541 qualifications outlined by Mr. Hall.
- 542 • Mr. Hall's suggestion was a good idea. It gave discretion, and provided for a lot of leeway to
543 accommodate the temperature on what the sign would inevitably be. Similar signs in the
544 past had brought out a lot of public comment, and while this particular '76 Station sign had
545 pros and cons, it was moving in a positive direction.
- 546 • Language-stating signs had to be consistent with the underlying zoning was great for
547 downtown, but did not help outside of downtown. There was discussion about having some
548 sign review beyond downtown.
- 549 • Back in the early days of the Commission, Commissioner Carter stated they needed to
550 remove the "downtown" from the downtown guidelines and have it just be the City of
551 Milwaukie guidelines.
- 552 • Regarding Question 4, the addition of an electronic readerboard sign should absolutely not
553 be allowed to go into nonconforming signs.
- 554 • The Sign Code needed to be looked at more generally and not addressed in isolation. There
555 should be a limit to the number of roof signs allowed on a building. The issue that could
556 arise with the small readerboard signs in windows was there could be 2 signs, and people
557 would not need to integrate anything. The City should be working away from a proliferation
558 of signs.
- 559 • The total square footage of signage per establishment should be limited.
- 560 • Under the current Code, roof signs, wall signs, and freestanding signs all had their own
561 allocation.
- 562 • Should businesses located along the Harrison St frontage get the same square footage of
563 signage as Dark Horse Comics, for instance, because they were an establishment?
- 564 • The 6 criteria proposed by staff provided a good starting place.
- 565 • At some point, it would be a good idea to incorporate the DLC as they had a really good
566 critical eye about what was going on.
- 567 • Last time staff had presented two different views for the Commission to consider, which was
568 appreciated.

- 569 • Staff clarified that Mr. Crawford had prepared all the findings.

570

571 **Ms. Mangle** explained that a sign had been installed last week on Main St in the North Industrial
572 Area. It was not through permitting yet, and would be approved by the City. When they started
573 testing the sign last week, staff began getting a lot of complaints and questions.

- 574 • The sign was actually illegal from ODOT's point of view and the applicant would not be able
575 to get the required permits from the State. The sign was different than the '76 sign. It
576 qualified as outdoor advertising, a very specific ORS definition, and required ODOT
577 approval which they did not meet, and ODOT cited them today.
- 578 • The City's standards were nonexistent for those types of signs. ODOT had those
579 standards, but the City did not implement ODOT rules, resulting in a pretty awkward
580 permitting situation.
- 581 • If the Commission chose to go forward with the downtown signage amendments, many of
582 the same Code sections that could address that type of sign would be changed. ODOT
583 suggested sign code models to consider. In doing some changes to the Sign Code to
584 address the '76 Station and Main St signs, specifically on changing illuminated signs, they
585 might be able to couple that with Mr. Crawford's amendments and other Codes to make
586 targeted and specific changes without a ton of work; something could be done quickly,
587 knowing that broader changes were wanted.
- 588 • One reason whole-chapter Code amendments were done was because targeted little
589 changes usually end up not connecting the dots somewhere and things get lost.
- 590 • However, the risk was pretty high for more of the large illuminated billboard signs, so she
591 would be more comfortable than normal with doing something targeted if it could be
592 done with low effort, both on the Code writing and the outreach portion, which was
593 always tricky with signage because it affected a lot of property rights.
- 594 • Another aspect with illumination, which was almost the technology side, would be pretty
595 easy to add into the Code because it involved measurements. This was addressed in the
596 City of Salem's code language.
- 597 • She displayed a picture taken during the day of the illuminated, moving LED sign installed in
598 the North Industrial area that was set on 5% brightness.

599

600 **Commissioner Batey** stated the sign would be inappropriate even if it were just a solid sign
601 because it was out of scale for that building. It was allowed by Code because the Code had a

602 ridiculous measurement based on the frontage of the property as opposed to the size of the
603 building.

604

605 **Chair Klein** agreed the Sign Code needed to be addressed, but the real surgical issue that
606 needed to be address regarded the '76 Station. Then, the Commission should talk to Council.
607 The Commission could come up with good ideas for great signage, but until Council decided
608 which the direction they wanted to go, the Commission would have a very hard time getting the
609 Sign Code through. The last time they had sign issues, the Council did not want to take as
610 restrictive an approach as the Commission, which undermined the Commission's goals. He
611 hoped this could be discussed at the meeting with Council on March 1.

612

613 **Ms. Mangle** stated staff hoped to get some broad guidance on illumination in general, like the
614 technology side of illuminated billboards and outdoor advertising. If the Commission could
615 define what the project was specifically, staff could work to craft some Code, using code from
616 other cities and Mr. Crawford's proposal.

617

618 **Mr. Crawford** noted that red LED diodes were proposed for the '76 Station and they would be
619 visible from the front on a black background and monochrome. This was, in fact, prohibited in
620 their draft language because of the black background. It did not necessarily have to be red.
621 Citing various examples in the packet, he explained they were trying to limit using a great deal
622 of white. Considerations should also be given for possible future uses of downtown facilities or
623 along the waterfront.

624

625 **Chair Klein** stated questions were then raised about what constituted background and what
626 percentage had to be black.

627

628 **Commissioner Gamba** did not believe that the color should necessarily be limited. The Code
629 should simply address plain letters or words on a plain background. Black might not be a bad
630 thing.

631

632 **Chair Klein** believed a static image had to be maintained and that no television screen type
633 signage should be allowed. DVD players were not allowed on dashboards.

634 • **Mr. Crawford** added Portland had wrestled with the moving, television type of advertising
635 on Sixth Ave by I-405 and on the Morrison Bridge and finally figured out how to address the
636 issue.

637

638 **Mr. Hall** suggested if the Commission was moving toward a more targeted amendment, the
639 purpose of such an amendment might be twofold: first, to solve Mr. Kanso's problem, and
640 second, to provide regulations to bridge until a more thorough adoption could occur. If this was
641 done at the same time as the Commission providing the impetus for a more thorough adoption,
642 he did not know how much more specific amendments, such as colors of signs, background
643 versus not background, etc., had to go into the details. It sounded like the Commission wanted
644 to allow the '76 Station sign but stop giant LED signs until they could clean house and get the
645 Sign Code they wanted.

646

647 **Commissioner Gamba** replied that short of a lot of description, the baby was thrown out with
648 the bathwater when they state no LED signs. Some amount of description was needed as to
649 what was prohibited: no movement, no multicolored backgrounds, etc. The proposed
650 amendments pretty much covered it.

651

652 **Ms. Mangle** summarized that the Commission generally agreed with the downtown draft
653 proposal as written to incorporate the DLC and doing a strategic Code amendment knowing that
654 a broader discussion was needed. For other parts of the city, they would address the illuminated
655 billboard signs; specifically their movement, brightness, and TV screen quality, but not
656 necessarily precluding the small static readerboards in the same way. Maybe some of the things
657 crafted for downtown could apply to other areas. Staff would use as much language as possible
658 from Salem and Portland codes, and she welcomed further input from the Commissioners.

659

660 The Commission and staff discussed the new sign in the North Industrial area with these
661 comments:

662 • ODOT had a list of many standards, including specific illumination standards. What keyed
663 the sign into ODOT's regulations was it was viewable and readable from a State highway.
664 While many outdoor advertising signs on State highways did not conform to ODOT
665 regulations, ODOT had limited resources for enforcement. After a sign was cited, the citation
666 went into a file and many times that was the end of it.

- 667 • With the current state of the Milwaukie Code, it would be difficult for the City to pick up
668 those violations. The City also did not want the burden of enforcing regulations. If hefty
669 fines were built in payable to the City, it might be worth enforcing the violations.
- 670 • A condition of approval could be added that before a sign was turned on, proof of an ODOT
671 permit was required.
- 672 • Under ODOT regulations, illumination and movement were not permitted primarily because
673 of the traffic safety issue. A sign on Hwy 99E seemed to violate those criteria.
- 674 • One difficulty was that the signs often are not actually owned by the property owner, but by
675 the sign company, who leases the space from the property owner.
- 676 • ORS 377.720, which was limited to outdoor advertising signs as defined by ORS 377.715,
677 stated, "A sign may not be erected or maintained if ..." and then there was 9 different "ifs".
678 The one that applied to this sign most directly was number 4, "has any lighting, unless such
679 lighting is so effectively shielded as to prevent beams or rays of light from being directed at
680 any portion of the main traveled way of a State highway or of such low intensity or brilliance
681 as not to cause glare or to impair vision of the driver or a motor vehicle or otherwise to
682 interfere with the operation thereof." The State did not want the light going out from the sign
683 but shot back at the sign.
- 684 • In terms of ODOT enforcement, a letter writing campaign by the citizens of Milwaukie
685 may or may not make ODOT more likely to enforce their code.
- 686 • The sign in the North Industrial area would be in conformance with the Sign Code; however,
687 they had not yet fully demonstrated compliance with the current standards, but they would.
688 Once the Commission addressed and amended the Sign Code, those signs would be legally
689 nonconforming.
- 690 • Again, these issues had been raised in the past. The Commission discussed putting a
691 sunset clause on nonconforming signs in the city, but Council disagreed. With the new
692 Council, the question deserved being raised again.
- 693 • With the Sign Code, the Commission needed to have a stance that would help companies
694 generate business, while still creating a positive, livability environment in the city.
- 695
- 696 **Mr. Crawford** understood that the '76 Station sign was a nonconforming sign because as a 20-
697 ft sign, it exceeded the 15-ft height restriction. They had added the language that one could
698 modify as part of the changing of copy, in this case the changing of brand from Arco to '76. At
699 that point, when the new sign was going in, the LED came in as part of the rebranding, because

700 the current Code prohibited changing out the electronic portion of the sign. Changing the wiring
701 internally from florescent to an LED light was what tripped the Code criteria; otherwise, it would
702 have just been a cabinet sign with a refacing. If the Commission did not allow a nonconforming
703 sign due to height to be changed out to incorporate LED technology, then their problem was still
704 unsolved.

- 705 • The tripping point was modifying the language to incorporate the LED. The current language
706 stated the internal wiring of the cabinet sign could not be changed. An electrician was
707 required to change it from fluorescent to LED, and it came from the sign company prewired
708 to allow that.

709

710 **Chair Klein** understood the question, adding it was part of a discussion the Commission would
711 have at a later date. What they currently wanted to do was to put the existing sign into a
712 nonconforming use that was accepted at this point in time. Later on, as the discussion went to
713 Council, nonconforming signs could be addressed throughout the city.

714

715 **Mr. Marquardt** noted Mr. Crawford's point still stood. According to the discussion, the
716 Commission did not want to incorporate LED or readerboard signage into nonconforming signs,
717 though that discussion was still open. If something like that were adopted, it would not address
718 the '76 sign because it was nonconforming, and no permit could be issued based off the new
719 Code.

720

721 Commissioner Wilson left the meeting at this time.

722

723 **Mr. Hall** did not believe the proposed Code amendment changed the height limitation, so the
724 '76 sign would still be a nonconforming use. Theoretically, it was a timing issue as far as if the
725 Commission wanted to go with what Commissioner Batey suggested that an amended Code
726 would prohibit switching out normal lights for LED lights in nonconforming signs. That could be
727 something that applied forward from adoption of said amendment, and because they had
728 already done it, theoretically, then the '76 sign would only be nonconforming for the height.

729

730 Discussion continued regarding the '76 Station sign issue with the following comments:

- 731 • The Commission should not prohibit replacing incandescent bulbs with LEDs. If the gas
732 station across the street wanted to make their nonconforming sign smaller and switch to
733 LEDs, the Commission should not stop that just because it was still a nonconforming sign.

734 The idea was to move toward conformity and reduce electrical use, so the Commission
735 should not want to stop that replacement. Installation of a new nonconforming sign would be
736 a different story.

- 737 • A scenario like that could result in no one putting a new sign up but just refinishing and
738 refacing existing signs, which was currently being done.
- 739 • **Mr. Crawford** explained the issue with regard to the municipal court was a Code compliance
740 issue. They needed to know what steps to take to address the compliance issue, so they
741 could tell the judge that they were no longer in violation of the law, because the law had
742 changed.
- 743 • **Ms. Mangle** clarified the issue was with illumination, not the height.
- 744 • **Mr. Crawford** wanted to know to what extent the existing sign could be modified. As he
745 understood the Sign Code, he was prohibited from changing the fluorescent light fixtures in
746 his internally illuminated cabinet sign to LEDs because rewiring was required, even though it
747 would use 5% of the energy of the fluorescents to illuminate the sign.
- 748 • **Ms. Mangle** stated the specific standard to address was that at what point was a
749 modified sign determined to be a new sign. That threshold might need to be adjusted a
750 bit or the Commission could decide if such an extensive amount of change was done,
751 the sign should be brought into full compliance. Sign refacing is allowed, but not a lot of
752 mechanical or infrastructure changes because then essentially a new sign was being
753 built and full compliance with the Sign Code was required. On the other hand, such
754 modifications enabled the City to push for full compliance.
- 755 • **Commissioner Batey** preferred monument signs and to move away from pole signs. She
756 acknowledged visibility around that corner was a challenging aspect of where the '76 sign
757 was located. The sign could impact visibility if lowered to comply with the 15-ft height
758 limitation.
- 759 • Moving into a sign variance at this point in time would only address the height, size, etc. A
760 pole sign was not nonconforming, so a variance would be needed. Again, the issue was at
761 what point was a sign no longer begin modified, but being changed so much that it was a
762 new sign.
- 763 • It seemed backward that changing from an old to a new technology was the trigger that
764 made it a new sign whereas changing the face and the message did not. Technological
765 upgrades should be allowed, but the changing of the message or face should constitute a
766 new sign.

767 • **Ms. Mangle** explained that all commercial property owners assumed they could change
768 the face of the sign, and that the structure of the sign was permitted. She would not feel
769 comfortable trying to change this assumption in the surgical type of Code amendment
770 being considered.

771 • The technology used within the sign seemed to be the issue. The Code update could
772 address how the City deals with illumination as a technology, to better define the thresholds.
773 The nonconforming sign could still be a bit of an issue.

774

775 **Terry Whistler, 11519 SE 30th Ave, Milwaukie**, observed that the question of when a change
776 occurred was different for the City and for a business. The City wanted the maximum
777 opportunity to make ugly signs go away. Whether it involved a new light or a new facing, it was
778 the City's one and only chance to do anything about an eyesore for the next 10 years. A
779 business would say, "Stay away from my property rights and my freedom of expression; how a
780 sign was lit was irrelevant, and freedom of speech could not be regulated."

781 • He noted there was something inherent to rapidity of motion. Biologically, people are wired
782 to look at things that change. It was the objective of those signs to override the
783 consciousness that made them so objectionable. Some research must exist about
784 physiological responses to visual stimulus so that one could prove that their biology was
785 overridden.

786

787 **Commissioner Batey** wanted to know what underpinned the ODOT regulation read by Mr. Hall.
788 A whole discussion about that distraction took place with the high school sign. At that time, she
789 researched the issue online and found one good item on the US Department of Transportation
790 website, but it took a lot of digging.

791

792 **Chair Klein** noted the City Attorney at the time stated he had worked on some cases where
793 they were not able to bring any proof that a scrolling or moving sign was in any way a
794 distraction. Because it was not a distraction while driving did not mean it was not an eyesore in
795 the city, which really needed to be addressed.

796

797 **Commissioner Batey** noted that the inability to prove the issue in a court case did not mean
798 there was no research supporting that this type of signage was a distraction.

799

800 **Mr. Hall** commented that in establishing a standard about the scientific response to a sign, the
801 experts on that issue would seem to be the sign companies who had done all the studies and
802 would show up with experts to discuss the information that actually served them. He agreed it
803 was the business of sign companies to figure out how to get people to look at the sign, and they
804 knew that information.

805

806 **Commissioner Gamba** suggested having a standard that disallowed change more frequently
807 than a specifically determined time, like every 24 hours or 12 hours. It was measureable and
808 would solve a lot of the problems.

809

810 **Ms. Mangle** reviewed the general goals suggested for this specific Code project as follows:

- 811 • Allow small readerboard LED signs on monument or freestanding signs on lots fronting
812 McLoughlin Blvd and downtown, which Mr. Crawford's proposal discussed.
- 813 • Clarify and modernize the City's illumination standards overall.
- 814 • Limit TV-style illuminated moving signs everywhere.
- 815 • Coordinate with ODOT's outdoor advertising standards.
- 816 • Allow change to LED technology without crossing the threshold of calling it a replacement
817 sign.

818

819 Additional comments from the Commission included:

- 820 • Size should be addressed in conjunction with the building as well as the idea that the sign
821 was measured by the property frontage as opposed to the building it was placed on.
- 822 • A reduced maximum signage size was suggested regardless of the building or property; the
823 current maximum size was obviously too big.
 - 824 • **Ms. Mangle** explained that imposing a maximum signage size everywhere would
825 change the scope of the project, requiring notification to all affected property owners.
826 Portland had standards regarding signage within 100 ft of every State highway;
827 something similar could be included.
- 828 • The current '76 Station sign issue should be addressed and then the Commission could
829 readdress the issues on the grander scale.
- 830 • Mr. Crawford's language could be used with some minor tweaking, which would address the
831 immediate issue.

- 832 • **Mr. Crawford** agreed, adding what they really needed was the ability to modify a
833 nonconforming sign so they did not trip up again on a technicality that the sign was
834 rewired.
- 835 • **Ms. Mangle** reminded that the Code was being written for every property and every
836 situation and Mr. Crawford had done a good job of addressing that. The Code was not
837 written to specifically address one situation.
- 838 • Adding a size limitation for signs by highways was a possibility. Those property owners
839 would still need to be contacted, but there were a limited amount, and some precedent had
840 been set for that.

841

842 **Chair Klein** stated this was a good opportunity for the Commission to have that discussion with
843 Council, because regardless of what a property owner may or may not necessarily want, the
844 Council would inevitably have the final decision. He appreciated Mr. Crawford's efforts in
845 helping to make changes to the Sign Code.

846

847 6.2 Summary: Discussion of work plan for FY 2010-11; revisions to Bylaws

848 Staff Person: Katie Mangle

849 **Ms. Mangle** noted the Commission's annual joint meeting with Council would be March 1 at
850 Council's worksession. Her draft staff report to Council was provided in the packet and gave an
851 overview of some of the Commission's accomplishments over the past year. The Planning
852 Commission 2010-11 Priorities were split into A and B categories.

- 853 • The A list identified the fundamental job of the Planning Commission, which regarded
854 Metro compliance and holding public hearings, as well as the Residential Development
855 Standards Project, which was already in process.
- 856 • The B list contained a long list of items that were in development or that the Commission
857 wanted to develop or that needed discussion with Council to develop strategies.
- 858 Feedback was requested about items in the B category.

- 859 • She clarified that the items in A.3 on 6.2 Page 2 that were enacted in December 2010 might
860 begin over the next year. The City usually had 2 years to comply with the new Metro
861 requirements. Within the next year, they would need to determine the scope of the TSP
862 update. Industrial zone amendments were also pretty small and limited. Title 6 was more of
863 an opportunity, so even explaining that would take a while. While no set requirement
864 existed, the Commission would need to discuss strategies for complying with all these

865 different items. Some decisions would need to be made, and the approach would be
866 implemented over the following year.

867

868 **Chair Klein:**

- 869 • Noted the second bullet on 6.2 Page 3, “planning for development on rezoning of Murphy
870 and McFarland sites projects.” He believed it was bad policy to be planning on a site and
871 working toward something that would add to infrastructure where it was currently not present
872 to support the surrounding areas. The Commission was doing the work of the owners by
873 rezoning the property to try to sell it or bring it into something other than what it was
874 presently, which was just basically open space. He suggested contacting the development
875 community to say the City was willing to rezone the properties and would take all offers and
876 consider good plans. It was throwing money away for the Commission to draw out a project
877 without having ownership of the property or a buyer on one end and a seller on the other.
- 878 • **Ms. Mangle** responded that the City was simply being reactive. The current zoning on
879 those properties precluded any good development from happening.
- 880 • Asked if rezoning it would preclude development from happening otherwise. Would it be
881 rezoned for just anything, or into specific zoning for what the City was planning for that
882 property?
- 883 • **Ms. Mangle** explained that the property owners would be involved in the rezoning and
884 they were asking the same questions. The property owners have come to staff in the
885 past when someone wanted to buy the property and asked what would be involved in
886 rezoning to allow a certain use to happen. Going through a rezoning process was a
887 huge, steep hill to climb without the City or the community being part of that
888 conversation.
- 889 • Believed the City would want to either sign off or not sign off on any type of development of
890 that magnitude for either one of those sites. Discussion would occur about the particular
891 type of development once someone submitted a plan.
- 892 • **Ms. Mangle** noted that once an application was submitted, it was subject to the 120-day
893 clock. There was no time for good community discussion and conversations about the
894 design, aspirations, amenities, requirements, etc.
- 895 • She clarified that staff was already getting questions about what reasonable plans would
896 work on the Murphy and McFarland sites, which was why the planning work needed to
897 be done.

- 898 • Staff did not believe any existing zones were acceptable for the site, which is why the
899 conversation would include broader commercial areas.
- 900 • The site was presently a mixed use zone with a transoriented development overlay,
901 and these canceled each other out unless it was an industrial use. There were many
902 strange issues. The General Commercial Zone was a strip mall zone; the
903 Neighborhood Commercial Zone did not even allow coffee shops.
- 904 • The City did not have very good commercial zones, so the conversation was not just
905 about the Murphy and McFarland sites, but also about 32nd Ave, 42nd Ave, and some
906 other areas. They needed to know what the community wanted and the vision for these
907 different areas to ensure the regulations would at least allow that vision to happen; the
908 proposed work would not make it happen.
- 909 • Responded that would be great if the City had an unlimited amount of money, but it did not.
910 The item above, “vision and revised Code for neighborhood-oriented commercial areas
911 (particularly 32nd and 42nd Ave)” would give a far greater bang for the buck than anything
912 that could possibly be done for Murphy and McFarland for the next 10 years. If development
913 occurred on the McFarland site, no current infrastructure existed, like streets, sidewalks,
914 accessibility, bike lanes, etc., to service that area in any manner. The City would be
915 continually adding to an already bottlenecked and reduced pedestrian- and bicycle-friendly
916 atmosphere in that area. No development should be done on the rezoning of the properties.
917 He did not understand why the City would consider trying to increase density and infill when
918 infrastructural issues needed to be addressed. There were bigger fish to fry than trying to
919 figure out who could buy the Murphy and McFarland sites and how to make it desirable
920 without addressing bike and pedestrian issues on 42nd Ave.

921

Commissioner Batey:

- 923 • Noted that all of B.1 was a big project that had many pieces. If the Commission was going to
924 do the surgical strike on the Sign Code, the bigger Sign Code revision ought to come before
925 B.1. Although there was some outreach involved, the Sign Code was not that big of a
926 project. In terms of staff hours, the Sign Code was not anywhere near as big a project as
927 B.1.
- 928 • **Ms. Mangle** agreed and stated the Sign Code should be listed separately. The Sign
929 Code was intimidating because it was not only about finding the standards, but about
930 setting community expectations. It was a public relations job as well as getting the

931 Council and Commission on the same page in terms of expectations. The Sign Code
932 was about changing the expectations about how signs would be regulated in a pretty big
933 way. And it involved sign companies who were different than even the people the
934 Residential Development Standards Project would affect, because they had deep
935 pockets and lawyers.

- 936 • A sign company already submitted a Freedom of Information Act request on the sign
937 permit for the sign on Main St. When the Sign Code project was started, staff wanted
938 to make sure the appropriate resources were being put into it.
- 939 • Staff would have more capacity to start work on the Sign Code once the Code Tune-Up
940 and Natural Resource Overlay projects were done; they were just starting work on the
941 Residential Development Standards and starting the commercial areas discussion. She
942 hoped the Sign Code project would be a partnership between staff and the Commission.
943 Having the Commissioners talking with businesses and Councilors would help
944 immensely.
- 945 • **Commissioner Gamba** suggested having at least two or three short, joint worksessions
946 with Council to hammer it out.
- 947 • Believed the Commission should capitalize on the current reaction to the Main St sign.
948

949 **Chair Klein** wanted to add the eco-training that Mart Hughes did to B.4 Trainings for
950 Commissioners. The tour was also something the new planning staff should take. Taking the
951 tour gave him different outlooks on how environmental issues were handled.

952
953 **Commissioner Gamba** suggested participation in The Natural Step Program of at least half the
954 Council and half the Commission. The training provided participants a different, more holistic
955 perspective about how they viewed things. Things were viewed from the perspective of how
956 they would affect everything, such as carbon footprint and all aspects of the planet.

- 957 • **Ms. Mangle** stated it was a budget consideration; the cost was about \$1,000 for 8 people.
958 This training was something to be considered for the next fiscal year. Lake Oswego used
959 The Natural Step as the approach to their comprehensive plan.

960

961 **Ms. Mangle** noted she had not received any email about revisions to the bylaws.

962

963 **Commissioner Batey** stated that they still had not finalized the timing of elections, though the
964 matter was resolved for this year.

965
966 **Commissioner Gamba** liked the idea of a prospective Chair having time to observe the current
967 Chair before taking the position.

968
969 **Chair Klein** agreed. The only thing they would have to worry about was if the Chair decided to
970 step down in the middle of their term, which would create a whole different set of circumstances.
971 He did not believe it was necessary to have something in the bylaws that provided for a Chair
972 elect.

973
974 **Ms. Mangle** clarified that Commissioners were allowed two, full 4-year terms in addition to filling
975 a previous person's term. She agreed to check whether that was in conflict with the City
976 Charter; which stated that it was a maximum of two, 2-year terms.

977
978 **7.0 Planning Department Other Business/Updates**

979 **Ms. Mangle** stated the Trolley Trail would begin construction tomorrow. When the portion of the
980 Trolley Trail that was in the city came in to get a CSU permit a year and a half ago, conditions
981 were written and things set up for that section to be coordinated with light rail so that if it
982 changed a set amount in certain ways, it would have to return to the Commission. That portion
983 of the trail was still in design, and staff was watching the process and tracking the issue.

984
985 **8.0 Planning Commission Discussion Items**

986 **Commissioner Batey** stated that when they discussed North Clackamas Park, she would like
987 an update on Riverfront Park and what was happening with the permitting agencies and the
988 nonmotorized boat access issue.

- 989 • **Ms. Mangle** replied the focus of that project had been on the signalization and coordinating
990 with sewer treatment plant access.

991
992 **9.0 Forecast for Future Meetings:**

993 February 22, 2011 1. Worksession: North Clackamas Park North Side Master Plan
994 March 8, 2011 1. Public Hearing: Natural Resource & Water Quality Code Amendment

995
996 Meeting adjourned at 8:53 p.m.

997

998

999

1000

Respectfully submitted,

1001

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1004

1005

Paula Pinyerd, ABC Transcription Services, Inc. for

1006

Alicia Stoutenburg, Administrative Specialist II

1007

1008

1009

1010

1011 Lisa Batey, Chair

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 22, 2011
7:00 PM

COMMISSIONERS PRESENT

Nick Harris, Vice Chair
 Scott Churchill
 Lisa Batey
 Chris Wilson
 Mark Gamba

STAFF PRESENT

Katie Mangle, Planning Director
 Li Alligood, Assistant Planner
 Damien Hall, City Attorney

COMMISSIONERS ABSENT

Jeff Klein, Chair

1.0 Call to Order – Procedural Matters

Vice Chair Harris called the meeting to order at 7:02 p.m. and read the conduct of meeting format into the record.

2.0 Planning Commission Minutes – None

3.0 Information Items – None

4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings – None

6.0 Worksession Items

6.1 Summary: North Clackamas Park North Side Master Plan Discussion

Staff Person: Li Alligood

Li Alligood, Assistant Planner, provided a brief staff report, noting that the worksession was to address questions raised by the Planning Commission at the public hearing on July 27, 2010.

She briefly reviewed the Commission’s requests as follows:

1. Present the North Side Master Plan in the context of the entire park.
2. Explain the timing of the proposal and the time lapse between the final plan and the City’s legislative application.
3. Discuss how parking functioned throughout the park.

- 42 4. Describe the alternatives considered when deciding where to locate different uses,
43 specifically with regard to the southwest corner of the park.
- 44 5. Consider adding language to the plan to ensure that the creek was allowed to adapt over
45 time.
- 46 6. Provide information about potential grants and the impact of a Master Plan adoption on
47 eligibility for the grants.
- 48 7. Explain how what was finally adopted by City Council differed from what was adopted by
49 the Commission regarding the ball fields application CSO-05-02.
- 50 • She noted the staff report for the CSO-05-02 appeal outlined those differences and
51 was included in the meeting packet.
- 52

53 **Michelle Healey, Manager, North Clackamas Parks and Recreational District (Parks**
54 **District)**, introduced Katie Dunham, a planner with the Parks District who had been working on
55 the park master plan project all along.

56

57 **Katie Dunham, Planner II, Parks District**, reviewed the North Clackamas North Side Master
58 Plan Map and its key features via PowerPoint, providing background about the Parks District
59 and North Clackamas Park (park), and addressing the questions posed by the Commission in
60 July 2010, all of which was included in the meeting packet. She noted that adoption of the
61 Master Plan would formalize the community's vision for the North Side of the park and provide
62 guidance for future improvements, which does not currently exist in the City's Comprehensive
63 Plan.

64

65 **Ms. Dunham and Ms. Healey** responded to clarifying questions and comments from the
66 Commission as follows:

- 67 • While the staff report noted a shared use of the ball fields for soccer, no soccer was taking
68 place due to how busy the fields were currently; however, the fields were available for
69 soccer or ball field use when scheduled events were not occurring.
- 70 • Soccer could be played during available open time at the fields. Club teams or a group
71 of people wanting to play soccer would be directed to certain times to use the field. The
72 field could also be used spontaneously if no tournament or game was occurring at the
73 time. The fields were youth size, so would not be used formally by an adult team, though
74 pick-up games were possible.

- 75 • There was no formalized use or scheduling for the fields. Field maintenance was an
76 issue due to the current high usage. Soccer use was encouraged where more space
77 existed, such as at Alder Creek, Hood View, or at the high schools.
- 78 • The equestrian arena facility has been at the park for a long time, but over the years the
79 scheduled events of the past have died off. There was some infrequent use, but it was not
80 being used to its maximum capacity. The Stewardship Committee for the park has been
81 discussing how to promote the facility.
- 82 • The parking management plan, developed when the ball fields were completed, did include
83 a shared parking agreement with Turning Point Church. The Parks District found that
84 parking was not an issue on a regular basis; the existing parking was sufficient for all the
85 uses within the park.
- 86 • The additional area shown on the map indicated a reconfiguration of the existing gravel
87 parking that currently accommodated about 25 vehicles. The number of parking spaces
88 and details would be part of a future land use application.
- 89 • One reason for changing the parking regards a crushed culvert on Mt. Scott Creek.
- 90 • The uppermost parking shown was partially located where the picnic structures are
91 currently located.
- 92 • The project timeline shown for the Mt. Scott Creek Restoration Project was pretty
93 aggressive. The project had been presented to the community, but it was unlikely that the
94 application would be presented in June. The Parks District just wanted to make the
95 Commission aware of the project.
- 96 • Each piece of the Master Plan would come before the Commission for review and further
97 adjustments could be made.
- 98 • The project had survived the first cut from Metro in the grant award process. If it was
99 grant-funded, this project would likely come to the Commission first and addresses a lot
100 of the natural resource improvements proposed in the park. Currently, the Parks District
101 does not have any funding budgeted to do any park improvements, so grant funding
102 would be necessary.
- 103 • The new restrooms on the north part of the park would be on sewer service.
- 104 • Provisions for telecommunication facilities had not been considered in the Plan.
- 105 • Such areas were ideal to install a telecommunications facility which would be incredibly
106 income-generating.
- 107 • The Parks District was trying to comply with the County's Sustainability Plan and had looked

- 108 at some sustainability improvements in some other parks. If the parking lot was permitted,
109 they wanted to look at best practices for stormwater management and water quality
110 treatment. Natural Resource Coordinator Tonia Burns has been working at the park
111 specifically with the stream and creek.
- 112 • Other communities might be good resources for specific practices or new ideas, like
113 using alternative pest management, keeping the green waste on site, etc.
 - 114 • The Parks District does pay attention to available sustainability options.
 - 115 • Was there a timeline for the equestrian arena facility where an alternative would be
116 considered due to inactivity? Removing the “keep out” signs was suggested.
 - 117 • There had been talk over the years about the arena having to stay in the park because it
118 was restricted in the deed. An attorney was currently reviewing the matter. No timeline
119 for changes was proposed for the arena, but steps were being taken to get information
120 as to what it might take if that discussion were to happen.
 - 121 • Part of the arena redevelopment was partially funded by a grant through the Oregon
122 Parks and Recreation Department, which was something to consider if that part of the
123 park were to be replanned or redeveloped.
 - 124 • Over the years, the Parks District had talked to a variety of different park agencies and had
125 visited many different dog parks during the planning process. Ultimately, having more
126 facilities throughout the district was the goal. More space was needed because the park was
127 popular. Ms. Healey would prefer buying additional land for a dog park rather than doing
128 such improvements at the park. In talking to other agencies, they found dog parks were a
129 challenge for everyone in some form or fashion.

130

131 Commissioner Churchill:

- 132 • Advised that the Parks District to talk with the Gabriel Park manager, as it was one of the
133 better managed parks. One thing Portland Parks and Recreation did was give the summer
134 dog park a rest by closing it and opening the winter dog park, which was primarily sand and
135 acts as a bioswale of sorts.
- 136 • Suggested using the arena as a multi-use facility since not a lot of equestrian activity
137 occurred in the winter. The arena could be reconditioned. Equestrians have complained that
138 the arena turf was pretty horrible, and they would not bring their worst horse to the arena.
139 Closing it for winter dog use and getting it back in better shape for equestrian use in the
140 spring might make better use of the same space without having a deed restriction challenge.

- 141 This would also allow the dog park used for summer to recover during the winter.
- 142 • **Ms. Healey** agreed being able to alter the dog use areas was a great option. She noted
- 143 the arena footing had been improved quite a bit and had much better drainage. The
- 144 Parks District would need to do some public outreach before implementing the multi-use
- 145 plan suggested. It was something to consider, and it would be great to reduce some of
- 146 the demand in the existing dog park.
- 147 • Added if it was not in the arena, some other portion of the southwest corner of the park
- 148 would be a good spot to consider. This would enable the dog park to recover since it was so
- 149 heavily used.

150

151 **Commissioner Batey** commented she was probably the most supportive of the Master Plan

152 back in July. Her biggest concern was that she did not want any more pavement in the north

153 side than necessary. She would be watching the wording in the findings of the staff report

154 regarding the new parking lot on the north portion.

- 155 • Parking lots should not be built for the worst day. The parking stress was coming from the
- 156 ball fields. Instead of the ball field overflow being channeled to the church, it was going into
- 157 the Milwaukie Center lot. She wanted to see compliance with the ball field parking overflow
- 158 going to the church so parking could be preserved for other uses in the area without laying a
- 159 lot of new pavement.
- 160 • Otherwise, the Master Plan looked great.

161

162 **Commissioner Gamba:**

- 163 • Agreed with Commissioner Batey on the parking lot issue.
- 164 • Stated the subject area naturally would be a flood plain. To be the best habitat possible, the
- 165 area needs to be able to flood where it wanted. He understood it had flooded quite a ways
- 166 into the park even without having 100-year flood events.
- 167 • **Ms. Healey** replied the park does experience flooding during high rain events.
- 168 • Asked if the flooding issue had been considered in this Plan and had they looked into
- 169 extending the riparian area to allow braiding so that the creek flows naturally.
- 170 • **Ms. Dunham** responded the initial plan is to expand the wetland buffer outside of the 50-
- 171 ft line to 70 ft. This began when the south side of the park was developed.
- 172 • **Tonia Burns, Natural Resource Coordinator**, agreed a natural flood plain would have
- 173 a lot of braiding. The issue was balancing uses in the park and the City needed to decide

174 what to use the land for. There was probably a braid that went from Mt. Scott to Camas
175 Creek in the upper area and another one a bit lower that connected the two more often
176 and possibly with wetlands in between which might still exist. Currently, a picnic area
177 was located there which was popular in the summer when it was dry. If the area was to
178 become more natural, decisions needed to be made, such as moving the picnic area or
179 limiting access to certain areas. It was a matter of balancing what the community desired
180 and what nature needed and desired.

181 • **Ms. Healey** stated that the park was identified as an important resource in the
182 watershed planning for the whole Mt. Scott area. The Parks District was working to do
183 the best improvements possible while still making it available for citizens to use as a
184 park. Oregon Department of Fish and Wildlife (ODFW) and other regulatory agencies
185 had offered some best practices and best ideas. Within the grant application, they were
186 trying to do things to improve the creek, such as taking out the crushed culvert to
187 improve the creek's natural flow. There were constraints up and down the creek that had
188 an impact on how flooding occurred in the park. It was a big watershed-wide effort. The
189 Parks District would do their best to work with the regulatory people and Clackamas
190 County Water Environment Services (WES) to be the best stewards they could for the
191 park, while still allowing access to it.

192 • Suggested looking at the natural flow of the creek and then determining where to place the
193 picnic area instead of the other way around.

194 • **Ms. Healey** stated they tried to look at how the flooding occurred, which varied in the
195 wintertime versus summer. They did not want to disturb more of the park than necessary
196 and were trying to provide the best access possible, which involved making choices and
197 balancing. The Parks District was always willing to consider doing things differently and
198 was open to suggestions.

199 • They have worked to protect some areas, like the Camas Creek area behind the
200 Milwaukie Center (Center), as well as create some reserved areas for wildlife and
201 expand the buffers. The Parks District recognizes the need to protect natural resources,
202 but also wants to let people access the facility.

203

204 **Elizabeth Young, 10232 SE 37th Ave, Milwaukie**, stated that she served on the Friends of
205 Milwaukie Center Board of Directors. She was concerned about the traffic pattern in front of the
206 Center where 12 ADA spaces exist. It was important for the Commission to understand what

207 occurs when events take place at the Center, which was two, three, or more times per week.
208 People parking in the ADA spaces had trouble moving around. One or more busses are often
209 parked in front of the Center to load and unload visitors, which served not only senior citizens,
210 but those who with Alzheimer's or are paralyzed. The buses could be parked there for an hour
211 or so, making it difficult for those parking in the ADA spaces to access the building. Those in the
212 ADA parking spaces have to cross through that same, very narrow space where active families
213 and others pass through, hurrying to get to the dog park or other areas. This did not make
214 sense and was not a safe situation. She believed that area should be just for patrons of the
215 Center and indicated that those going to the dog park should use a different route.

- 216 • She clarified that the Board of Directors had sent the Commission the letter in the packet;
217 she was speaking personally tonight.

218

219 **Commissioner Batey** noted the letter that came from the Board had photos attached and also
220 showed the busses sitting there. She asked why the busses stayed there instead of offloading
221 and moving so they were not a visual obstruction.

- 222 • **Ms. Young** replied she did not know and had wondered the same thing. She agreed
223 moving after offloading would alleviate the congestion a bit, but it was not the complete
224 answer.

225

226 **Dick Shook, 4815 SE Casa Del Rey Dr, Clackamas County**, stated he has been a neighbor of
227 the park since 1976. He agreed the congestion in front of the Center was a problem. Many of
228 the people arriving needed the hydraulic lifts on the bus and each individual took a while to load
229 and unload.

- 230 • He noted there used to be some great events at the horse arena, such as equestrian shows,
231 dressage, and even small jumping events. After the arena was rebuilt, the access had not
232 been advertised, and it had been confusing to get back there. He had sat in on a lot of the
233 Stewardship Committee meetings, which included an equestrian representative and the
234 arena is being used and had been picking up a bit this winter.
- 235 • One thing proposed at a recent Stewardship Committee meeting was to install a handicap
236 mounting facility to bring in some programs that used horses and horseback riding with
237 handicapped individuals. He heard that Clackamas County had one of the largest equestrian
238 populations in Oregon. Use could increase with marketing and promotion. The person
239 representing the equestrian people on the Stewardship Committee was working with the 4-H

240 program and hoped to develop a summer program for a horse show. When it rained during
241 winter, the whole park was wet. It was a flood plain, so reduced use should be expected
242 during the winter.

243

244 **Commissioner Wilson:**

245 • Asked if the low use of the equestrian area could be caused by the fact that it had been very
246 popular, underwent renovation, and then was forgotten; but now it was starting to pick up
247 again.

248 • **Mr. Shook** believed that was true. The arena was virtually closed for almost 2 years
249 right after the ball parks opened. This was partly due to renovation, but also because the
250 gate to the access road that came down the south side was locked and there was no
251 signage to direct equestrians how to access the facility. With marketing and promotion,
252 use at the arena would increase, but it was not like ball games where tournaments were
253 more frequent and long lasting.

254 • He agreed that maybe a timeline was needed if the deed restrictions were lifted. He
255 suggested keeping track of the usage over the next 5 to 10 years rather than arbitrarily
256 removing the arena.

257

258 **Vice Chair Harris** stated that in light of the citizens' comments, when the Applicant returned
259 with the Master Plan, it was important to look at the traffic flow past the Center. He suggested
260 designing a holding zone for buses so they would not have to stay parked in front of the Center,
261 possibly on the north side of the parking lot. Perhaps, it could be turned into 2-way traffic along
262 the east side of the aisle.

263 • **Ms. Healey** stated the Parks District was concerned about the patrons of the Center as
264 well as park users in general, and wanted the parking lot to be as safe as possible.
265 Different configurations were considered when planning for the park, and they were
266 open to conditions being required when the parking lot was discussed. She did not know
267 the level of design work that was possible right now, but they could come up with
268 different ideas for when the parking lot design took place.

269 • Asked how much maintenance was done on the footing for the arena currently.

270 • **Ms. Healey** replied that did not know the answer, but would find out.

271

272 **Katie Mangle, Planning Director**, reiterated that this was a worksession, noting the public

273 hearing would be reopened and that all the material and minutes would be included in the
274 record. She asked if the Commission received the answers they needed for the questions asked
275 in July, and if they were comfortable reopening the public hearing to discuss the Master Plan.
276 This was a legislative application, not minor quasi-judicial. The Commission had the chance to
277 help craft the Master Plan and add suggested language into the document of specific things that
278 would need to be included or considered for further development applications.

279

280 **Commissioner Gamba:**

- 281 • Asked whether staff wanted the information the Commission wanted to see in the Master
282 Plan now, so it was already included when it returned for the public hearing.
- 283 • **Ms. Mangle** replied specific things could be addressed now, but the Master Plan also
284 was going to City Council, so did not need to be completely final at the Commission
285 hearing.
- 286 • Stated the parking lot was problematic in several ways including: traffic issues in front of the
287 Center, paving something that was currently permeable, adding parking that might not be
288 needed, and paving something in a flood zone area that might be unnecessary. He would
289 welcome the removal of the parking lot.
- 290 • Would like to see how the Master Plan could be adjusted to allow for braiding. The
291 interconnection between Camas and Mt. Scott Creeks was pretty basic.
- 292 • Believed that addressing the arena was pointless due to legal restrictions.

293

294 **Commissioner Churchill** stated that he would like that to be explored further. Because the dog
295 park was in a flood plain, extra care of the site was needed. The impact on Gabriel Park from
296 dog walkers and their dogs caused a lot of harm, and it needed a break. Especially since it was
297 a flat site, he strongly suggested that a winter park designation be considered. This would help
298 drive maintenance costs down and could be combined with or adjacent to the arena. He would
299 like to see this as part of the revised application and public hearing discussion.

300

301 **Vice Chair Harris** stated that one issue he had last year was a Master Plan for a site that really
302 only encompassed half the site. However, the Parks District had done what staff asked them to
303 do: develop a Master Plan for the north half of the site. It looked like that precluded considering
304 a dog park in the southern portion of the park. He asked if the Master Plan could be expanded
305 to include the south side.

306

307 **Commissioner Batey** asked if the fact that this was a Master Plan about the north side
308 precluded the Commission from having findings that addressed the arena or other uses in the
309 south side of the park.

310 • **Ms. Mangle** responded that all the work that went into the Master Plan over the last
311 several years needed to be considered. Many community meetings and discussions
312 were held, and she believed some did include looking at the southwest corner of the
313 park with the parks group. She was not sure what parameters were put on the project or
314 participants. It was important to not change the rules this late in the process if it changed
315 some of the assumptions of those who worked to develop the Master Plan.

316

317 **Commissioner Churchill:**

318 • Was concerned that a section of the park was being ruled out. At the last hearing they
319 discussed looking at the southwest corner. He appreciated the work done through the
320 multiple public hearings, but not addressing the southwest corner of the park was a missed
321 portion of the Master Plan and it deserved some attention. Not that all the public hearings
322 needed to be revisited, but some of the Commission's concerns should be addressed since
323 the Parks District was requesting the Commission's support. The issue would be raised, and
324 they should be prepared to discuss it.

325 • **Ms. Dunham** noted that a lot of public involvement was done throughout the process for
326 the north side of the park, which included looking at the south side of the park as well as
327 the dog park and whether it would be best planned to be at the arena or in the southwest
328 section of the park. A large group of community citizens spoke out to say that would not
329 be a good location for the dog park at this time. If the south side of the park were
330 brought in at the next Commission meeting, and moving the dog park or changing the
331 use of the horse arena were discussed, the Parks District would have to go back through
332 an entire public involvement process to make that type of change.

333 • Stated the fact that the southwest corner of the park was discussed in those public hearings,
334 but now the Parks District was coming to the Commission with the request not to discuss
335 that area was inconsistent. The Commission wanted to discuss that area.

336 • **Ms. Healey** stated that during the planning for the north side of the park, the Parks
337 District discussed moving specific elements to the southwest corner. Through that public
338 process, the majority opinion was that was not where they wanted to go as a community.

339 The Parks District was bringing the outcome of the whole process to the Commission.
340 Because it had been discussed, they would need to go back out into the community and
341 reopen the issue to let them know they wanted to revisit it and make changes. The Parks
342 District did not want to make changes after the public had clearly said no in the planning
343 process. There was so much history in the park. The goal in bringing this concept to the
344 Commission was to present an overall picture, because the park had been piecemealed
345 to date. They agreed to bring some concept for the north half which people were really
346 concerned about. If the Commission wanted to reopen and revisit the issue, they would
347 probably need to talk collectively about whether to invest in redoing a public process or
348 not; however, that funding was currently not available. The work that had already been
349 done had cost \$50,000. Not to discredit the Commissioner's comments, but public
350 process was indeed an issue.

351 • Stated he was frustrated. At the last hearing, the Commission had asked the Parks District
352 to look back at the southwest corner of the park, as it was an important part that was not
353 being studied. A Master Plan should address all portions of the park. Now the Commission
354 was being advised that this had been discussed at public hearings before, but it was not part
355 of the Plan and sort of an untouchable zone.

356 • **Ms. Healey** stated that it was basically left as unprogrammed area that was open for
357 things such as kicking a soccer ball around or equestrian use. Through the public
358 process, that was what was left. If that were to be changed, there would need to be a
359 public discussion. What was there was pending some future decision by the Commission
360 or the City to do something differently. There was no capital funding available to change
361 the south side nor was there anything in the Master Plan or Comprehensive Plan to
362 change the south side.

363 • Noted some Commissioners would like to reduce hardscape, which would be a way to
364 transfer capital funds and address some of the questions raised about the southwest corner
365 of the park. He understood there were hearings that expressed a desire not to discuss the
366 southwest corner of the park, but this body did not want to rule out that area.

367
368 **Commissioner Batey** confirmed that a lawyer was looking at the deed restriction issue. If one
369 existed, the City was stuck for a portion of this. If no deed restriction existed, the question
370 became whether there should be some kind of measure of an existing amenity that could be put
371 to better use. Could something be done in this Master Plan, even though it was nominally the

372 north side, to put some timeline on the arena, etc., for example?

373

374 **Vice Chair Harris** stated that beyond the arena, it looked like there was a lot of room for an off-
375 season dog park in the unprogrammed play area.

376 • **Ms. Dunham** stated on 6.1 Page 4, under #7, part of the original application CSO-05-02
377 approved by the Commission for the south side of the park did include a soccer field in
378 the southwest section of the park, north of the arena. During the 2005 appeal process,
379 the decision was made and the final decision designated the soccer field as a youth
380 soccer field, moving it to softball field #4 and leaving the area north of the arena as
381 unprogrammed play area so it could be used however people needed or wanted. In
382 2005 and throughout the north side planning, the Parks District looked back upon that
383 land use decision, and decided that the area would become unprogrammed play space.
384 This was a piece of the history that is the south side that became part of the planning for
385 the north side of the park.

386

387 **Commissioner Gamba** asked if the main concern was creating an off-season dog park in that
388 corner of the park or that it appeared to be an unplanned portion of the park.

389

390 **Commissioner Churchill:**

391 • Responded it was both. He strongly encouraged discussions with the managers of Gabriel
392 Park and to look at the damage on that property, which was not even in a flood zone but on
393 a fairly hilly site with good drainage. In the interest of protecting County dollars and keeping
394 maintenance as low as possible, the Parks District should give the dog park a chance to
395 recover. The southwest corner provided a perfect opportunity. Even if it was just to the west
396 of the arena, there was enough area to put in a winter dog park. The cost was miniscule and
397 would help long-term maintenance costs and help the summer dog park recover so there
398 was no long-term reseeding or reparations. He wanted the overall use to be considered.
399 This area was an eighth of the park that really had not been addressed. Given they were
400 going to be looking at the legal implications of the deed restriction around the arena, he
401 asked they also look at the southwest area.

402 • **Ms. Healey** suggested a condition of approval would be to do a public process to
403 consider doing a seasonal dog run or something in the Master Plan for the north side,
404 stating the Parks District needed to look at how the dog run was operated. Providing that

405 direction would help the Parks District go back to the public without stopping the current
406 process. Also, some considered unprogrammed space to be a programmed use. While a
407 lot could be done in that space, the Parks District heard loud and clear during the south
408 side process that a lot was being crammed in and some space that was open was
409 desired. The unprogrammed space was used and considered an amenity; discussions
410 would need to occur if they wanted to change and develop the unprogrammed use.

411 • Stated that in looking at the footprint of the large dog off leash area and the unprogrammed
412 area, there would be minimal impact to the overall unprogrammed area in the southwest
413 corner. Something even 3/4 the size of the large dog off leash area could fit easily within the
414 unprogrammed areas and still leave a lot of unprogrammed area north of the arena. He
415 encouraged the winter dog park option be considered. Not much maintenance was required,
416 which would save money.

417 • **Ms. Healey** stated the Parks District would certainly consider the arena.

418 • **Ms. Burns** presented a diagram and stated the idea was to revegetate that whole area
419 and have a trail that would connect to the loop trail for walkers. She also noted mitigation
420 areas for swales.

421

422 **Vice Chair Harris** commented that the displayed diagram showed planning for the southwest
423 corner that the Parks District did not want to put in the Master Plan for the park.

424 • **Ms. Burns** responded the diagram showed the plan WES was putting together.
425 Currently two wetland mitigation areas were planned.

426 • **Ms. Healey** noted the Parks District clarified with the consultants that the trail was not in
427 the plan for the south side. No plan existed to return with a paved, improved trail. The
428 vegetation within the riparian area and wetland mitigation area was already part of the
429 south side work being done.

430

431 **Commissioner Churchill** clarified he was not recommending putting a winter dog park in a
432 riparian area; maybe it needed to go on the east side of the arena. He asked that the Parks
433 District consider conceptual ideas. If they were not going to at least put it in the Master Plan on
434 the north side, they should address the southwest corner of the park.

435

436 **Commissioner Batey** stated the fact that the Gabriel Park winter park was sand could make it
437 possible to have a shared use for the arena, which seemed to be sand; in winter a dog park and

438 in summer a horse arena.

- 439 • **Ms. Healey** stated the Parks District could talk to people about using the arena in the
440 winter. They respected the public process and had learned from experience the
441 importance of making sure they respected the public process.

442

443 **Commissioner Gamba:**

- 444 • Noted the material he read stated no additional parking was needed, so asked why
445 additional parking was planned.
- 446 • **Ms. Healey** responded that part of that parking lot was an existing gravel lot used by
447 Center patrons, people picnicking on weekends, etc. When the south side was finished,
448 there were concerns about more parking being needed and better, improved parking
449 closer to the Center was requested. The Parks District was open to leaving the gravel lot
450 as is or doing some improvements to it without expanding the parking. Parking had been
451 able to be managed within the current uses. If the park was improved, more people
452 could be coming which needed to be taken into consideration; however, the proposal
453 was not for more intensive uses that would draw that many more people.
- 454 • Supported getting rid of damaged culvert and improving the water or fish passage and
455 leaving the parking lot gravel for the time being.
- 456 • **Ms. Dunham** explained that at this time, a larger parking lot was not being presented,
457 but at some point, that parking lot could be improved to improve the creek and the
458 surface of the parking lot. At this time, no funding was available to do this project, and
459 that would be a future land use application. The Parks District did want to maintain the
460 approximately 25 parking spaces that existed. Four spaces were saved for Center
461 busses that parked there on a regular basis.

462

463 **Commissioner Churchill:**

- 464 • Commented it looked like a larger footprint was being shown on the plan.
- 465 • **Ms. Dunham** responded that the plan was conceptual. Before it had been presented as
466 40 parking spaces; at this time they just wanted to continue having parking in that
467 location for the Center and dog park.
- 468 • Noted that conceptually, they were doubling the square footage of the parked area.

469

470 **Commissioner Batey** stated the proof in the pudding would be what the findings and conditions

471 said and how the Commission could condition it.

472 • **Ms. Healey** stated they heard those concerns at the last hearing and had actually pulled
473 back on the size, because they did have 40 spaces and a larger area. The Parks District
474 also wanted to change the language in the document to recognize that they should take
475 a closer look at really how much parking was needed. Although they had not changed
476 the drawing, they had changed the text.

477
478 **Commissioner Wilson** stated Mr. Shook had a great point about why the equestrian area use
479 had waned. Mr. Shook's suggestion about waiting 5 or 10 years raised the concern that
480 something would be created that would really inhibit the use such as a shared use. It seemed to
481 be a great thing in the past and it could be a good thing in the future given the right amount of
482 publicity and maybe some signage. Leaving the dog park fallow in one area and using it in
483 another area such as the east side was a very good idea. The equestrian area should continue
484 to be supported and more so with signage and publicity.

485
486 **Ms. Mangle** stated staff would work with the Parks District to see what kinds of changes could
487 be made to the actual Master Plan. The continued public hearing would be scheduled and
488 renoticed, because it had not been continued to a date certain. A sign would be posted on the
489 site and notice mailed to everyone within 300 ft and those on the interested persons list.
490 Everything from this meeting would be in the record and available to anyone who wanted it at
491 the hearing. They would bring back the best shot for the Commission to decide what to do at
492 that point.

493

494 **7.0 Planning Department Other Business/Updates**

495 7.1 Summary: Planning Commission Notebooks and Code Binders

496 The Commission proceeded to Items 7.2 and 7.3, which were added to the agenda.

497

498 7.2 Summary: Electronic Sign Code Amendments

499 **Ms. Mangle** explained this update was intended as a follow-up to discussion at the last meeting;
500 not of the Code amendments themselves, but just the project management side. Because this
501 specific project was driven by the Commission and staff's workload currently encompassed
502 several large projects, she wanted to be clear about the Commission's direction and schedule
503 regarding these Sign Code amendments.

504 • Milwaukie Code amendment procedures were distributed to the Commission, including an

505 11x17 sheet illustrating the detailed adoption schedule for updating the Sign Code in
506 downtown only, and also regarding electronic billboards citywide.

507 • Staff sought feedback from the Commission about whether to focus only on the downtown-
508 only aspect of the Sign Code, which would address the '76 Station, or also deal with the
509 larger citywide problem of electronic signs.

510 • She wanted to acknowledge that even if moving either project along at a pretty good pace,
511 neither would be effective probably until August because of the work that would need to be
512 done; the larger citywide project would certainly not be effective until September at the
513 earliest.

514 • A third option would be having the applicant submit an application on their own timeline and
515 take on more responsibility themselves. They would still have to go through all the steps
516 noted in red in the procedures, but it would probably put a little bit more of the burden on
517 them to craft the findings and conditions and take responsibility for some of the public
518 involvement.

519

520 **Commissioner Wilson** stated his frustration during the first hearing was if the Commission
521 made a choice to go ahead with the application, it would create a way for other applicants to
522 come in and do the exact same thing all the way down Hwy 99E.

523 • **Ms. Mangle** clarified that was an appeal of the Planning Director's interpretation of the
524 existing Code. Upholding that interpretation kept the door closed on reader boards in
525 downtown. During the decision, it was agreed the Planning Director was interpreting the
526 Code correctly, but some Commissioners also wanted to change the Code so there
527 would be some reasonable allowance for these kinds of signs. The applicant did a really
528 good job of crafting what that could look like, but it did not take them all the way there.

529

530 **Commissioner Batey** stated if they were going to do it, why not just amend the whole Sign
531 Code.

532

533 **Commissioner Churchill** stated if it would only take an additional month, they should go
534 citywide.

535

536 **Commissioner Wilson** understood that Option 3, the private initiation of a legislative
537 application, would not create the same problem, because that was specifically the Director's

538 interpretation, etc.

- 539 • **Ms. Mangle** responded yes, this would be their application to amend the Code which
540 was different than an interpretation of the Code; this would be new Code.
- 541 • She confirmed that Option 3 targeted their specific issue and so would be downtown.
542 With the legislative application, the Commission would get to tinker with it and craft it, but
543 it would not be opened to address other issues.

544

545 **Commissioner Batey:**

- 546 • Asked what the City had heard from citizens on the readerboard sign. Commissioner Gamba
547 had received four calls, and she talked to one Neighborhood District Association (NDA)
548 leader who was just appalled by it.
- 549 • **Ms. Mangle** stated staff had not heard that much from citizens, but it had not been
550 turned on very much. The sign permit had not been issued yet, but when it was staff
551 would probably get more calls.
- 552 • Stated her concern was not just the readerboard aspect of that sign, but the sign was
553 completely too big. Even if it were a sign for the business that it was sitting on, the sign was
554 way too big for that building; it was completely disproportionate. If the Sign Code allowed for
555 signs that big on the buildings, the Sign Code was really broken. She believed the
556 Commission needed to prioritize.

557

558 **James Crawford, 12620 SW Foothill Dr, Portland**, stated the reason they were considering
559 Option 3 was to move things along. They had an appointment with a judge in May. A fourth
560 option would be for the Commission to direct the Planning Department to give this a higher
561 priority, move it to the top of their workload, and get this resolved by April which would allow for
562 the required 45-day notice to the State. If the City was looking at this as an issue, and the
563 Commission saw it as a favorable recommendation to go forward to Council, they did not want
564 to get fined by the judge in May only to have this all legal 2 or 3 months later. Option 3 was
565 being considered in order to expedite this for an approval prior to seeing the judge.

566

567 **Ms. Mangle** confirmed it was not possible to have an effective date in April or even mid May
568 with Option 3.

569

570 **Commissioner Gamba** believed the better option was to do whatever the Commission decided,

571 whether downtown or citywide.

572

573 **Vice Chair Harris took a straw poll about whether the Commission should focus the Sign**
574 **Code amendments citywide or only downtown with Commissioners Churchill, Batey,**
575 **Gamba, and Harris voting to go citywide, and Commissioner Wilson voting for Option 3**
576 **to allow the applicant to move forward.**

577

578 **Commissioner Gamba** asked if the City could write a letter to the judge to say the
579 amendments were moving favorably, would probably be resolved but probably not until
580 September/October if the Commission decided to go citywide.

- 581 • **Ms. Mangle** advised that would be more appropriate coming from the Commission and
582 not staff.

583

584 **Commissioner Wilson** noted staff had a huge load on their plate over the next months, and
585 this was yet another huge project they were being given.

586

587 **Ms. Mangle** stated the conversation had not gone outside the Commission; staff had not yet
588 talked to Council, Historic Milwaukie, etc. She noted that what might seem like a good idea in
589 the room, might not have support to adoption. The legislative process had not been started yet.
590 If the interested Commissioners and Applicant helped with those conversations, the process
591 would go faster; if it was only she and Mr. Marquardt, the timeline would go beyond September.

592

593 **Commissioner Batey** confirmed that if it was citywide, the City would need to do outreach to all
594 the NDAs in addition to the other groups mentioned no matter which scenario was chosen,
595 except for Option 3.

596

597 **Commissioner Gamba** asked if staff expected pushback if the Commission was attempting to
598 make the '76 Station sign legal, and prevent signs like that on North Industrial from happening
599 anymore in the city.

- 600 • **Ms. Mangle** answered yes, from property owners and sign companies. Four people
601 showed up to the Code Tune-Up project hearing, and one was from Clear Channel.
602 Every building owner had the right to have Clear Channel rent that capacity from them.
603 In some ways, writing the Code could be the easy part on some of these projects. With
604 the citywide project, she did not believe they would address sign size, but would focus

605 on technology, and on some things the Code was silent on; or mimic some of ODOT's
606 existing regulations, so they could say they were not actually changing anyone's rights
607 because it was already not allowed by ODOT. Being strategic would minimize a lot of
608 discussions.

609

610 **Vice Chair Harris** asked when the Sign Code would fit in the Planning Department's schedule if
611 they went with Option 3. He did not want to delay working on the Sign Code too long.

- 612 • **Ms. Mangle** stated it would be one of the next projects on the list. Staff was planning to
613 discuss this at the joint meeting with Council on March 1. In terms of staff availability,
614 they were finishing up two big projects currently, the Natural Resource Amendments and
615 the Code Tune-up Project, which was going to Council for adoption on March 1. The
616 Natural Resource Project was scheduled to go to Council at the end of April. The bigger
617 Sign Code project would be a 1-1 ½ years starting this summer.

618

619 **Commissioner Wilson** reiterated Option 3 was still a choice.

620

621 **Commissioner Batey** stated the Applicant could always do Option 3, so if staff was doing it,
622 she preferred going citywide.

623

624 **Commissioner Wilson** noted the Commission was now directing staff to take this on and it was
625 huge.

626

627 **Commissioner Churchill:**

- 628 • Understood it was an infill of the current Sign Code in respect to electronic media.
- 629 • **Ms. Mangle** added the citywide option was not the citywide whole Sign Code. The
630 citywide option would include the downtown reader board issue and addressing large
631 illuminated outdoor advertising signs around the highways citywide, but in a very
632 targeted, minimal way. It was doable although it would not be perfect. The timeline would
633 not solve the Applicant's problem with the judge. Option 3 could result in a resolution
634 closer to the timeline.

635

636 **Commissioner Churchill** commented that sending a follow up letter to the judge saying the
637 Commission was still working on it would leave the applicant an option to say they were going to

638 go with Option 3.

639

640 **Mr. Crawford** noted that part of the reason the judge did not look at the last letter was because
641 it arrived the day of the hearing. Having the letter arrive next week would help them to know
642 what the judge's thought was well before so they could start Option 3.

643

644 **Commissioner Batey** confirmed there would not be a problem sending a letter to the judge
645 sooner rather than later. She agreed to write the first draft of the letter.

646

647 **Ms. Mangle** stated if the Commission wanted to proceed, she would need the Commission's
648 help talking to Historic Milwaukie as they were pretty skeptical about the original application.
649 She asked what aspects of the project the Commissioners were willing to help on, such as the
650 letter to the judge, talking to the Downtown Business Association, etc. She noted this was
651 something the Commission should discuss with Council on March 1 as well. She agreed the
652 letter to the judge should wait until after March 1.

653

654 Commissioners Churchill and Gamba offered to help out with Historic Milwaukie.

655

656 The Commission consented to proceed with Option 2, citywide, and send a letter to the judge as
657 soon as reasonably feasible.

658

659 7.3 Summary: Kellogg Bridge design

660

661 **Ms. Mangle** stated staff wanted to set up a special meeting between the Design and Landmarks
662 Committee (DLC) and Commission to discuss the design of the light rail bridge over Kellogg
663 Lake. The City would be looked to for recommendations on the design of that bridge within the
664 next month; some very important decisions needed to be made. This was a big project that
665 would be going through Design Review and through Willamette Greenway Review. The
666 Commission needed to discuss how they should be thinking about their role in the permitting
667 process.

668

669 **Kenny Asher, Community Development and Public Works Director**, offered some context
670 for the light rail project, the bridge, and what would be asked of the Commission. The bridge
671 was the largest element and the biggest visual change that would happen in Milwaukie because

672 of the project, which would change views, remove trees, add new gates, etc. The light rail
673 project was on a fast track to get from 30% to 100% design within the next 9 months so a full
674 funding grant agreement could be in hand for TriMet next summer. The design process was
675 linked to the grant application process. Staff has encouraged TriMet to take their design process
676 public; open houses would be held March 7, early April, and early May. At the March joint
677 meeting, there would be a couple of options available, but by early April, they would be down to
678 one preferred option. Now was the time for the DLC and Commission to see the work and get
679 clear about the overall design and their role in and permitting the work. Tomorrow night, staff
680 would have the same conversation with the DLC.

681

682 **Commissioner Gamba** said he attended the meeting a month or two ago with the two artists
683 assigned to make the bridge pretty, better, or interesting. Someone from TriMet told him at that
684 time that the actual design of the bridge was set in stone and all that could be done was add
685 frick frack.

686 • **Ms. Mangle** replied they had not discussed that with staff yet. They were still working
687 within a box in terms of type, size, and location, so it would not be a magnificent visual
688 structure; however, the City was pushing for higher design quality with materials, lines,
689 railings, etc. A lot of progress had been made since Commissioner Gamba had spoken
690 to the artists, and there was still a long way to go.

691 • **Mr. Asher** described the baseline design of the bridge. Staff was focusing on whether
692 the bridge should be concrete and steel and if the superstructure had to use trapezoidal
693 tubs. The columns and underside of the bridge were important, as well as how it looked
694 in the landscape and went over the lake. The Commission and the community were
695 invited to start thinking through all those elements along with the design team and staff.
696 A public design charrette would not be held for the bridge. As a functional bridge, it
697 needed a certain number of columns in certain locations of a certain size that fit within a
698 certain budget and provided a certain functionality for light rail. Staff wanted to ensure
699 that each element was properly thought through and if the whole thing worked as a
700 composition. This was the type of input the community and the Commission should be
701 providing.

702

703 **Commissioner Churchill** added the engineering of the structure or superstructure was already
704 set. The profile and form work was pretty much engineered with the exception of a couple of
705 options. He understood there was not much flexibility.

- 706 • **Ms. Mangle** stated that a presentation would be made at the PC/DLC joint session by
707 the TriMet design team: the bridge designers, architects, and hopefully the artists. The
708 designers would show what had been explored, what they currently had, what was in the
709 budget, etc. They would be looking for early design feedback from the Commission's
710 perspective as permittees, not only concerning Design Review, but also the Willamette
711 Greenway, aesthetics, and views. This was a crucial time to provide early feedback. The
712 application would probably not return until late summer and at that time the City would
713 be looking to hold TriMet to what they had said, however, with less of an opportunity to
714 influence the choices. She reminded that Milwaukie would be strongest when speaking
715 more as one voice. The more they could avoid surprises at the hearing the better, and
716 the more staff could more effectively advocate on behalf of the Commission.
- 717 • **Mr. Asher** added part of what was happening was that the Commission was getting a
718 nice preview, but the really important subtext to remember was that TriMet needed to get
719 this permitted on schedule and would be reading very carefully the Commission and
720 DLC to see whether or not this would be easy, hard, unpredictable, or tough-minded and
721 fair. The City wanted to be in the last category: tough-minded and fair, to ensure
722 Milwaukie was getting the best possible bridge while still being a good partner on the
723 project. They did not want to see the project run into long-term permitting risk, because it
724 would cost the project more which would reduce funding available for other
725 improvements in Milwaukie somewhere along the line.

726

727 **Commissioner Gamba** asked if the Commission could see what staff had seen so far.

- 728 • **Ms. Mangle** replied that staff did not have copies, but was seeing it on the screen in
729 meetings. It was evolving every day. Probably the first point would be the March 7
730 meeting; friends, family, and others should be encouraged to come. Those not able to
731 attend the joint session with the DLC should at least try to make it to the open house to
732 convey their comments.
- 733 • She clarified that a few different packages would be coming before the Commission. The
734 bridge would be its own package and probably the first because of the in-water work
735 window and involved the Natural Resource review as well.

736

737 **Commissioner Gamba** stated they should definitely try to have the artists there.

738

739 **8.0 Planning Commission Discussion Items**

740 **Commissioner Wilson** said he posed the question to his NDA with regard to how best to
741 communicate to the public. There was a ton of responses, but no one great answer. Many
742 people did stress *The Pilot*. Three individuals who were not online did notice *The Pilot* had not
743 come out one month and was electronic only; however, they were able to achieve access to the
744 information from their neighbors.

745

746 **9.0 Forecast for Future Meetings:**

747 March 8, 2011 1. Public Hearing: Water Quality & Natural Resource Overlay Code
748 Amendments

749 March 22, 2011 1. Public Hearing: Johnson Creek Confluence Project

750

751 **Ms. Mangle** stated that the March 1 joint meeting with City Council did not make it on the list.
752 The worksession would be held at 5:30 p.m. and would take about 30 to 40 minutes. She would
753 also share the staff report she had submitted to help frame that conversation. March 8 could be
754 cancelled if the Commission wanted as she had nothing for that agenda. On March 22, two
755 public hearings were scheduled: the Johnson Creek Confluence Project and the first hearing on
756 the Natural Resources Code.

757

758 The Commission consented to cancel the March 8 Planning Commission meeting.

759

760 Meeting adjourned at 9:24 p.m.

761

762

763

Respectfully submitted,

764

765

766

767

768

Paula Pinyerd, ABC Transcription Services, Inc. for
Alicia Stoutenburg, Administrative Specialist II

769

770

771

772

773 _____

774 Lisa Batey, Chair



To: Planning Commission

Through: Katie Mangle, Planning Director *KM*

From: Ryan Marquardt, Associate Planner
Jason Rice, Civil Engineer

Date: April 5, 2011, for April 26, 2011 Worksession

Subject: Wastewater Master Plan – Comprehensive Plan Amendment

ACTION REQUESTED

None. The Wastewater Master Plan and staff report was provided in the Planning Commission packet for the April 12th meeting to allow more time for the Planning Commission to review the documents prior to this work session on April 26, 2011. Staff anticipates that the first public hearing on the Wastewater Master Plan (WWMP) will be May 24, 2011.

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

- **August 2010:** Staff briefed the Commission about the project to update the WWMP, and shared preliminary findings.
- City Council authorized the scope of work for the project and has held several worksessions to discuss the project's progress.

B. Wastewater Master Plan Background

Wastewater Master Plan (WWMP) is one of several utility master plans that the City relies on to maintain, manage, and set policy for public facilities. It is an important document that should provide accurate information on the City's infrastructure to support the operation and upkeep of the City's wastewater system. The goal for this project is to produce a useful document that provides a road map for the successful management of the City's wastewater system. The document was drafted to address wastewater issues in a straightforward, understandable fashion.

Milwaukie's current Wastewater Master Plan (WWMP) was adopted by City Council by resolution in 1994. Engineering staff started a project to update the plan in 2003, but the

project was not completed due to the need to coordinate with the Clearwater Plan, an interjurisdictional effort to address issues with the Kellogg Treatment Plant. Since the Clearwater Plan was underway as the WWMP update was nearing completion, Council delayed adoption of the update until the Clearwater Plan was completed. Ultimately the Clearwater Plan was aborted by the County, and subsequent policy debates ensued about the future of the plant.

In 2008, the Engineering Department picked up the project again and significantly updated the information in the 2003 draft plan to prepare a new plan for adoption. Milwaukie's Citizen's Advisory Board (CUAB) participated in the master plan process and helped in its review. An Open House for the plan was held on February 25, 2009 at the Public Service Building.

In the last two years, the adoption process has been delayed pending resolution of items related to the wastewater system. These included city and county discussions about the Kellogg Treatment Plant, discussions of the city's utility billing rates, and completion of the Northeast Sewer Extension project. Engineering staff has edited the WWMP in response to the outcomes of these discussions to ensure that it is consistent with current information, and is ready to proceed with getting the plan adopted. It is a priority for the City to adopt the WWMP soon to have an official document for the operation and upkeep of the City's wastewater system, and to make use of the modeling and other work done from 2003 to 2005.

C. Master Plan Adoption Process

The WWMP will come before the Planning Commission as a Comprehensive Plan amendment. For legislative land use applications, such as a zoning text amendment or Comprehensive Plan amendment, the Planning Commission is required to hold a public hearing on the proposed amendments and make a recommendation to the City Council.

The amendments will include adopting the WWMP itself as an ancillary document to the Comprehensive Plan, and amending text of goals and policies within the Comprehensive Plan to be consistent with the WWMP.

The City endeavors to adopt all long range plans like the WWMP as ancillary documents to the Comprehensive Plan. These plans establish goals and policies for how the City will manage its resources to provide basic services to its residents, businesses, and institutions. It is important that such plans be incorporated into the document that guides how the City will manage future growth and development.

D. Worksession Objectives

Engineering staff will present the draft plan to the Commission during a worksession on April 24th. There will be two objectives for having this worksession. The first is to familiarize the Planning Commission with the basic contents of the plan prior to holding an adoption hearing. The second objective is to allow Commissioners to raise questions they may have about the plan or wastewater issues.

E. Key Topics of the Wastewater Master Plan

The WWMP contains a large volume of technical information about existing conditions and projections about future demands on the system. Planning Commissioners are welcome to

review these portions of the plan, though staff is not specifically seeking input from the Planning Commission on these portions of the document.

The basic contents and information in the WWMP are complete. Some portions of the document, however, are still in progress. Not all of the figures and references that will be in the document presented for adoption are present in the current draft.

The items listed below are topics within the WWMP that are more suitably within the Planning Commission's purview for making a recommendation on adoption of a master plan.

- 1) CCSD#1 Agreements (Chapter 6, Pages 6-1 – 6-6): Milwaukie has multiple intergovernmental agreements related to wastewater. The agreements with Clackamas County Service District #1 are the most critical as it governs the treatment of the majority of Milwaukie's wastewater. The chapter details past agreements and provides recommendations for future agreements.
- 2) Financial Analysis (Chapter 11, Pages 11-1 – 11-12): This chapter describes future fees and rates that are necessary to maintain Milwaukie's wastewater infrastructure and cover the rates charged by other agencies that provide wastewater services to Milwaukie.
- 3) Kellogg Treatment Plant (Chapter 5, Pages 5-1 – 5-2): The Kellogg Treatment Plant is a significant issue for the future of downtown Milwaukie, and has been a contentious subject between the Clackamas County/CCSD #1 and the City. The most in-depth discussion in the WWMP of the Kellogg Treatment Plant is in Chapter 5. The treatment plant is also addressed in the Chapter 6 and noted as an issue that is in flux. The proposed WWMP does not take any official stance with regard to the ultimate disposition of the treatment plant, and instead summarizes the Clearwater Plan and Regional Wastewater Treatment Options Study.

At this point, staff does not have open questions seeking direction on how these topics should be addressed. While preparing the plan, staff has discussed these issues with the City Council and/or the Citizen Utility Advisory Board. Staff is seeking the Planning Commission's concurrence on these policy issues.

ATTACHMENTS

1. 2010 Draft Wastewater Master Plan – Can be found on the City's website at: <http://www.ci.milwaukie.or.us/planning/planning-commission-31>



MILWAUKIE

Dogwood City of the West

To: Planning Commission
Through: Katie Mangle, Planning Director *KM*
From: Ryan Marquardt, Associate Planner
Date: April 19, 2006, for April 26, 2011, Public Hearing
Subject: File: WQR-11-01

Applicant: Johnson Creek Watershed Council; City of Milwaukie

Owner(s): City of Milwaukie; Gary and Sharon Klein; ODS Plaza Inc.

Address: Vicinity of 10795 SE Riverway Ln; Johnson Creek between 17th Avenue and mouth of the creek

Legal Description (Map & Taxlot): 1S 1E 35AA 2700, 3500, 3502, 3901, 4400, 4600, 5000

NDA: Historic Milwaukie

ACTION REQUESTED

Approve application WQR-11-01 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow for a habitat enhancement project to restore the confluence of Johnson Creek and the Willamette River.

BACKGROUND INFORMATION

The applicants are seeking approval to do habitat restoration work near the confluence of Johnson Creek and the Willamette River. The project includes planting native plant species, stabilizing stream banks, and placing boulders and logs in the stream channel. The proposed work would temporarily disturb the riparian area and result in better habitat for migrating fish and improvement in the overall riparian habitat.

A. Site and Vicinity

The site is located in the vicinity of 10795 SE Riverway Ln. It extends upstream approximately 1/4 mile from the mouth of Johnson Creek to the point where 17th Avenue crosses over the creek. The project area extends roughly 50 to 100 feet away from the creek along this stretch, and is approximately 6.5 acres in size. Most of the project area is

vegetated and relatively undisturbed, though evidence of past logging, filling, and excavation are visible. Electrical transmission lines and towers, and a sewer line are located in the project area, as are remnants of trestle footings that supported a rail line that once crossed the creek. The project area includes multiple tax lots in different ownerships. The land uses on these tax lots include a single family residence, an office building, and Milwaukie's Riverfront Park. The project area is not accessible through any formal road or path, and is relatively isolated given its proximity to urban land uses.

B. Zoning Designation

The project area includes the following base zones: Residential zone R-2 (R2), Downtown Office (DO), and Downtown Open Space (DOS). It is also covered by the Willamette Greenway Overlay zone (WG) and the Water Quality Resources overlay (WQR). Lastly, the area contains designated Habitat Conservation Areas (HCAs).

The only regulations that apply to the project are those associated with the WQR overlay. The proposed project does not include development that triggers requirements of the R2, DOS, DC, or DO zones. It also does not meet the definition of development that would trigger the WG overlay regulations, and is not subject to WG overlay review.

Projects are exempt for the Metro Title 13 HCA regulations if the project is to restore or enhance stream areas and is carried out according to an approved enhancement or restoration plan. If this application is approved, it would create an approved restoration plan, and the work done pursuant to the plan would be exempt from the HCA regulations. There are no other HCA regulations that govern creation or approval of the restoration plan itself.

C. Comprehensive Plan Designation

The project area includes the following Comprehensive Plan Land Use Designations: Public (P), High Density (HD), and Town Center (TC).

D. Land Use History

City records indicate the following prior land use approvals for this area:

- **1991:** NR-91-03, Approval for trench excavation to install telecommunications conduit and a concrete vault about 130 ft downstream from the old SE 17th Ave bridge.
- **1991:** NR-91-05, Approval for expansion of the off-street parking area at the former Pendleton Woolen Mill site (current site of ODS). The request was in conjunction with the loss of existing off-street parking due to ODOT's replacement of the SE 17th Ave bridge and the related realignments of SE 17th Ave and SE Lava Drive.
- **2000:** NR-00-01, MU-00-01, Approval for major building and site improvements associated with ODS taking over the site, including planting a landscaped buffer between the building and Johnson Creek and reconfiguring on-site walkways
- **2008:** CPA-08-01, ZC-08-01, HR-08-01, rezoning part of the southern bank of the creek from Commercial Limited to Downtown Open Space, and removing an historic resource overlay designation from the former Portland Traction Line alignment.

- **2009:** DR-09-01, WQR-09-01, Approval for major redevelopment of Riverfront Park, including restoration of the riparian area along the south bank of Johnson Creek. The 2009 approval was for restoration on the upland City property to the top of bank.

E. Proposal

The applicant is seeking land use approvals for a natural resource management plan for the restoration of the Johnson Creek/Willamette River confluence area during the summer of 2011. See Attachment 3.

The major elements of the restoration project are as follows:

1. Placement of Engineered Large Wood Structures (ELWs) and boulders in the stream. Placement of these objects provides refuge areas for migrating salmon and trout, and also creates a more diverse and complex stream habitat. These items would be placed in the stream and would be designed and in some cases anchored to withstand creek flows and remain in their intended locations.
2. Stream bank stabilization to stabilize existing banks and aide newly planted areas during their establishment. This would involve the use of anchored fabrics and large items such as logs to hold soils in place. In the long term, the roots of the native vegetation would hold soils in place once the fabrics have degraded.
3. Vegetation restoration, including the removal of invasive species and planting native plants within the project area. This work would be done by JCWC staff and volunteers and would continue after the other work identified in the plan. Replanting is proposed for winter 2012 and would be monitored and replanted as appropriate through 2014. This portion of the restoration plan continues JCWC's current efforts to remove invasive species in the area.

The placement of the boulders and wood structures is the most intensive work within the restoration project. It requires heavy equipment near the creek in order to situate the in-water items. The applicant plans to use Riverway Lane on the northwest side of the project area to gain access to the site, and would store project equipment and supplies in this general vicinity.

The project requires approval of a Water Quality Resource Overlay review. The Oregon Division of State Lands and the US Army Corps of Engineers have already given their approval for the portions of the project within their purview.

KEY ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

- A. What are the benefits and impacts of the work within the restoration and enhancement plan?
- B. Are the impacts from the project work adequately minimized and mitigated?

Analysis

A. What are the benefits and impacts of the work within the restoration and enhancement plan?

The applicant's overall goal with the restoration and enhancement plan is to improve the stream habitat at the mouth of Johnson Creek. The work proposed in the plan would result in equipment and work within the creek, and would change the existing conditions of the area. It is important for the Planning Commission to assess both the benefits and the impacts of the work within the restoration plan.

The benefits can be summarized as follows:

- Improved fish habitat – placing wood and boulders within the stream channel adds complexity to the stream habitat. This result in areas of scour pools and gravel deposits that better retain nutrients in the water, provide rest areas for fish, and provide spawning grounds.
- Creation of a human-made riffle over an existing sewer pipe – a city sewer pipe in a concrete shell crosses the stream in the project site. It was deemed infeasible to relocate the pipe further upland, and the project would place rocks over the pipe to simulate a stream riffle. This helps to protect the pipe and adds complexity to the stream habitat.
- Improved stream bank stability – some banks within the project site are eroding into the stream. The project includes work to stabilize these banks by using biodegradable fabric to stabilize the bank in the short term until vegetation is established that can stabilize the bank in the long term.
- Invasive species and debris removal / replanting native vegetation – this activity would occur along the stream banks and in upland areas throughout the 6 acre project site.

The impacts of the project can be summarized as follows:

- Operation and movement of machines on-site – the project involves movement of heavy objects and requires mechanical equipment to operate within the project area. Some of this movement may occur in the creek or require a temporary bridge to allow crossing over the creek. Operation and movement of heavy equipment in the area can damage existing flora within the site and disrupt fish and wildlife.
- Alteration of stream flows – the placement of new items within the creek has some risk associated with the creek's hydrology. There are risks that the new stream flow could erode banks near existing infrastructure. There is also the risk that the items themselves could be dislodged during high-flow events.

The impacts listed above are important considerations in deciding whether to approve the plan. Staff believes that the impacts in from construction on the site are temporary in nature, and are adequately mitigated. This issue is discussed in detail in Key Issue B.

The City retained ESA Adolfsen, an environmental consulting firm, to provide a technical professional review of the project. See Attachment 4. ESA suggested that the applicant provide more detail on the impacts of the in-water items to the flows within the creek. At this time, the applicant has not finalized the construction plans for the project. Staff agrees that this analysis should occur. A recommended condition of approval is that analysis be

provided prior to construction demonstrating no significant impacts from erosion or the stability of the in-water items.

Staff believes that, overall, the work in the restoration plan would benefit the confluence area. ESA's review of the project also confirms that the habitat structures in Johnson Creek, removal of nuisance plants, and revegetation would enhance the project area. The applicant has, in staff's assessment, put forth a plan that is well-designed, and based on sound ecological restoration practices.

B. Are the impacts from the project work adequately minimized and mitigated?

The work within the plan would not permanently disturb the project site. The work would actually provide an overall improvement in the habitat quality of the project area. The plan does not include placement of any permanent structures that would decrease the amount of vegetation within the water quality resource area. As such, this application does not require the type of impact avoidance, minimization, and mitigation analysis that is needed for proposals that would result in a permanent disturbance.

There are, however, temporary impacts associated with the proposed project, as described above. A summary of some of these impacts include:

- Foreign plant material on machines brought to the site, and oil, fuel, or other fluid leaks;
- Plant and ground disturbance from transporting the machines, including creek crossing; and,
- Disturbance of species within Johnson Creek.

For a restoration project such as this, it is not possible to avoid work and impacts to the WQR area. Staff believes that the restoration plan effectively minimizes the temporary disturbance necessary for the project work. The applicant only proposes to use heavy machinery where necessary for moving heavy objects. The invasive species and debris removal, and replanting, would be done manually. The creek crossing would only occur in one area, and most or all of the equipment would be able to operate from the banks of the creek, rather than within the creek itself. The applicant also plans to minimize the amount of time spent working in the water.

The applicant has provided a basic mitigation plan. The items in the plan include: upland storage of materials and equipment; procedures for inspecting and cleaning equipment; erosion control and turbidity monitoring; temporary fencing for areas that do not need to be accessed; specific mitigation replanting if any tree removal is necessary; and in-water work only as allowed by the Oregon Department of Fish and Wildlife.

Overall, the project's impacts are temporary in nature. The applicant has demonstrated that the temporary impacts would be minimized as much as possible. Based on the information provided by the applicant, staff believes that the project work can be mitigated. ESA's review addressed multiple areas where further discussion about the specific impacts of the work is needed. At this time, the final construction details are not available. Staff has proposed a condition that a more detailed mitigation plan be provided when the final construction plans are available and impacts can be more specifically evaluated.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve the Water Quality Resource application for the Johnson Creek Confluence restoration and enhancement plan. This will result in a natural resource management plan for restoration of the mouth of Johnson Creek that authorizes the work described in the plan to proceed.
2. Adopt the attached Findings and Conditions of Approval.

B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- Provide final construction documents for City approval that analyze the stability of the in-water items and their effects on bank erosion.
- Provide a mitigation plan that more specifically describes the extent of the equipment being use and the work, and describes the specific details of mitigation.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- Chapter 19.322, Water Quality Resource Regulations

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

- A. Approve the application subject to the recommended Findings and Conditions of Approval.
- B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.
- C. Deny the application upon finding that it does not meet approval criteria.
- D. Continue the hearing to allow for further deliberation or to allow parties more time to provide information.

The final decision on these applications, which includes any appeals to the City Council, must be made by June 7, 2010, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

The land use application was referred to the following agencies and persons: City of Milwaukie Engineering Department, City of Milwaukie Building Department, and the Historic Milwaukie

Neighborhood District Association (NDA) Chairperson and Land Use Committee. Notice of the application was also provided to: Oregon Department of Transportation, Oregon State Marine Board, Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Parks and Recreation Department, and the Milwaukie Design and Landmarks Committee.

Staff received one comment, which is summarized below. See Attachment 5 for further details.

- **Brad Albert, Civil Engineer, Milwaukie Engineering Department:** The Engineering Department commented that the applicant will need to demonstrate compliance with MMC Title 18, which regulates activity in floodways and flood zones, prior to commencing work.

ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Recommended Findings in Support of Approval (attached)
2. Recommended Conditions of Approval (attached)
3. Applicant's Narrative and Supporting Documentation dated January 24, 2011 and March 28, 2011.

Note: The portions of the application materials listed below are attached. The full application was mailed to the Planning Commission on April 6, 2011. The full application is available on-line at <http://www.ci.milwaukie.or.us/planning/wqr-11-01>.

- a. Applicant's narrative (attached)
- b. Exhibit B: Johnson Creek and Willamette Confluence Salmon Habitat Enhancement flyer (attached)
- c. Exhibit D, Sheet 3.1
4. Technical report review memorandum from ESA Adolfson, dated February 28, 2011 – includes responses from staff (attached)
5. Comments Received (attached)

Recommended Findings in Support of Approval

Sections of the Milwaukie Municipal Code that are not addressed in these findings are found to not be applicable decision criteria for the development proposal.

1. The Johnson Creek Watershed Council (JCWC) and City of Milwaukie (applicants) have submitted a Water Quality Resource application (File #WQR-11-01). The applicants seek approval of a natural resource management plan for a habitat restoration project at the confluence of Johnson Creek and the Willamette River. The application materials were initially submitted January 24, 2011, with additional materials submitted March 25 and April 1, 2011.
2. The project site is Johnson Creek, including its banks, between the mouth of the creek and the point where the creek crosses under SE 17th Ave. The project site includes portions of tax lots 1S 1E 35AA, 3502, 3901, 50004400, 4600, and 5000. The project site is mostly a vegetated riparian area and does not have a specific land use. The site is mostly undeveloped with the exception of a power line tower, a sewer line, and remnants of a road, a dam, and railroad trestles.
3. There are multiple base and overlay zones that apply to the project site. The areas to the east of the creek are zoned Downtown Open Space (DOS). The northwest portion of the project site is zoned Downtown Office, and the southwest portion of the site is zoned Residential zone R-2. Almost all of the site is covered by the Willamette Greenway overlay zone. The creek and the riparian area, approximately 50 feet from the top of the creek bank, are covered by the Water Quality Resource overlay zone. Most of the project site is covered by the Habitat Conservation Area overlay zone.
4. The restoration plan for the site is as follows: installation of approximately 12 engineered large wood structures in the stream channel; placement of a limited number of boulder cluster in the stream channel; stabilization of some stream banks in the project site; and upland work to remove invasive species and replant native vegetation.
5. The history of land use applications on the site is as follows.
 - A. N-91-03: Approval for trench excavation to install telecommunications conduit and a concrete vault about 130 ft downstream from the old SE 17th Ave bridge (which was later replaced with a new bridge by the Oregon Department of Transportation (ODOT)). All in-stream work was limited to the time window approved by the Oregon Department of Fish and Wildlife (ODFW).
 - B. N-91-05: Approval for expansion of the off-street parking area at the former Pendleton Woolen Mill site (current site of ODS). The request was in conjunction with the loss of existing off-street parking due to ODOT's replacement of the SE 17th Ave bridge and the related realignments of SE 17th Ave and SE Lava Drive. Conditions of approval included requirements for a minimum survival rate of 80% for mitigation plantings and for construction of grassy swales to handle stormwater discharge (previous discharge had been directly into Johnson Creek).
 - C. NR-00-01: Approval for major building and site improvements associated with ODS taking over the site. The project included planting a landscaped buffer between the building and Johnson Creek and reconfiguring on-site walkways. Conditions of approval included requirements to provide tree protection and erect barriers to prevent encroachment into the natural area during construction and to

restore any disturbances within the designated NR boundary with native ground cover (at a minimum).

- D. CPA-08-01, ZA-08-01, and HR-08-01: rezoning part of the southern bank of the creek from Commercial Limited to Downtown Open Space, and removing an historic resource overlay designation from the former Portland Traction Line alignment.
 - E. WQR-09-01: Approval for major redevelopment of Riverfront Park, including restoration of the riparian area along the south bank of Johnson Creek (Klein Point). The 2009 approval was for restoration on the upland City property to the top of bank, while the proposed project is focused on restoration work below top of bank, so the two efforts fit together seamlessly.
6. Portions of the project site are located in the Downtown Office and Downtown Open Space zones. A design review application is required per Milwaukie Municipal Code (MMC) 19.312.7.B, for development in downtown zones that constitutes exterior maintenance and repair, or a major or minor exterior alteration, as defined by Milwaukie Municipal Code (MMC) 19.312.6. The Planning Commission finds that the work proposed in the natural resource management plan does not constitute any of these types of development, and is therefore not subject to design review.
 7. The Planning Commission finds that the work proposed in the natural resource management plan does not affect any standards of the Residential zone R-2, Downtown Open Space, or Downtown Office that relate to structure height, design, or location, lot coverage, minimum vegetation, use, parking, density, or transportation improvements.
 8. Nearly the entire project site is within the Willamette Greenway overlay zone. The Planning Commission finds that the work proposed in the natural resource management plan does not constitute development or a change of use, as defined in MMC 19.320.4. As such, a Willamette Greenway land use review is not required.
 9. Significant portions of the project site are covered by the Habitat Conservation Area (HCA) overlay. The City of Milwaukie is implementing an interim version of these regulations until regulations compliant with Metro's Title 13, Nature in Neighborhoods, can be adopted into the Milwaukie's zoning ordinance. These interim regulations contain an exemption for environmental restoration and enhancement work pursuant to an approved resource management plan. The interim regulations do not have any process or criteria for approval of a resource management plan.

The Planning Commission finds that the applicants have submitted information for approval of a resource management plan under MMC 19.322, Water Quality Resource regulations. As demonstrated below, the Planning Commission finds that the management plan meets the standards and criteria for MMC 19.322. This makes the proposed resource management plan an approved plan for purposes of the HCA regulations and interim code. Actions taken pursuant to this plan are exempt from review, and an HCA application is not necessary.
 10. Milwaukie Municipal Code (MMC) Section 19.322 provides standards and procedures for review of Community Service Uses within the City.
 - A. MMC Subsection 19.322.4.A allows restoration and enhancement projects and development done in compliance with a natural resource management plan as an outright allowed activity. The Planning Commission finds that future work done in the project site pursuant to the natural resource management plan is

allowed outright. As conditioned, the Planning Director shall have the authority to determine what activity is considered in compliance with the resource management plan.

- B. MMC Subsection 19.322.7 lists items affecting a WQR area that require approval by the Planning Commission pursuant to MMC Subsection 19.1011.3, Minor Quasi-Judicial Review. The Planning Commission finds that the proposed natural resource management plan is described by MMC 19.322.7.H and requires such review and approval.
- C. MMC 19.322.9 establishes the requirements for a WQR application. As demonstrated below, the Planning Commission finds that these requirements are met.
 - i) MMC 19.322.9.A lists the requirements for a topographic site map to be submitted with an application. The Planning Commission finds that the applicant's materials satisfy the requirement for review of this project.
 - ii) MMC 19.322.9.B lists features required to be shown on site plans. The Planning Commission finds that the applicant's materials satisfy the requirement for review of this project.
 - iii) MMC 19.322.9.C lists requirements for delineation of wetlands. This is not applicable since there are no wetlands within the project site.
 - iv) MMC 19.322.9.D requires an inventory of debris and noxious material. The application materials do not indicate the presence of these within the project site.
 - v) MMC 19.322.9.E requires an assessment of the existing conditions within the WQR area in accordance with Table 19.322.9.E. The application materials include a map identifying that most of the west side of the project site is in 'good' condition and the area on the eastern side of the project site is in 'marginal' condition.
 - vi) MMC 19.322.9.F requires an inventory of vegetation for the site. The application materials include a general description of the types of plant communities that exist at the site.
 - vii) MMC 19.322.9.G requires an alternatives analysis for the proposed work or activity that will occur within the WQR area. The alternatives analysis must demonstrate the following.
 - a) MMC 19.322.9.G.1 requires a demonstration that no practicable alternatives to the requested development exist that will not disturb the WQR area. The work in the proposed restoration plan per the definition of "disturb" in MMC 19.103, restoration and enhancement work in a WQR area is not considered to be disturbance. As a result, the proposed restoration plan does not result in disturbance to the WQR area.

The Planning Commission also finds that temporary disturbance to the area will result from the restoration work. The major impacts include storage of equipment and materials on site, access by machinery to various portions of the site, and disturbance to the banks and streambed.

- b) MMC 19.322.9.G.2 requires an explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated. The Planning Commission finds that the result of the work in the restoration plan is an enhanced and restored riparian area at the mouth of Johnson Creek. As such, the work described in the plan does not have adverse impacts.

As described in the finding for MMC 19.322.9.G.1, the work to be done during the restoration and enhancement may have temporary impacts to the WQR area. The ways that these impacts are avoided, minimized, and mitigated is described below.

Storage and machinery on site: Equipment for the positioning of boulders and logs is necessary to place in-water elements, and its presence cannot be avoided. The impacts are minimized by having the equipment located on the banks above the stream and not having large equipment enter the stream itself. Impacts are also minimized by having equipment and materials stored on an upland area stored at least 150 feet from the stream. The equipment will be fueled and inspected for leaks at the storage area prior to movement to the rest of the site, and equipment will be cleaned prior to entering the site area. Access to the site will occur by an existing gravel access road.

Machine travel and operation within the project site: Equipment will need to move throughout the project area to complete the work in the restoration and enhancement plan, and this impact cannot be avoided. It is also possible that a temporary crossing will be necessary to move equipment across the stream, and that a piece of small equipment will need to operate within the stream. The application materials do not sufficiently describe the extent of equipment travel in the site or its impacts. As conditioned, the applicant will submit a plan for equipment operation on the site. The plan shall describe what areas of the site the machinery needs to access, the impacts associated with that the presence and movement of the machinery in the site, and plans for mitigating such impacts.

Disturbance to the banks and streambed: The banks and streambed of Johnson Creek will be temporarily disturbed by the placement of engineered wood structures, boulder, and bank stabilization. These elements are necessary in terms of creating a better in-stream environment for fish traveling up Johnson Creek and to establish stable bank conditions for the riparian area. Full diversion of the creek while construction occurs is not feasible within the scope of the project.

The impacts of these elements include disturbance to fish and wildlife, and erosion and stream turbidity. These impacts are minimized through doing in-water work only during the allowed in-water work window as required by the Oregon Department of Fish and Wildlife. The in-water work window is defined specifically to minimize impacts to migrating fish. The applicant has proposed

- the following mitigation: salvage fresh-water mussels prior to construction, installation of silt screening and other erosion control, monitoring stream turbidity and suspending or altering work schedule in response. As conditioned, final plans submitted prior to commencement of work shall describe the exact areas of disturbance and the specific mitigation measures to be used.
- c) MMC 19.322.9.G.3 requires that the WQR area can be restored to an equal or better condition in accordance with Table 19.322.9.E. Work done pursuant to the restoration and enhancement plan will maintain or restore all areas of the project site to a 'good' condition per Table 19.322.9.E. The work will mitigate any impacts from the construction activity as well as remove invasive species and debris and replant the entire project site with native vegetation.
 - d) MMC 19.322.9.G.4 requires an explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized. The objective of the enhancement and restoration plan is to improve the habitat of the Johnson Creek confluence with the Willamette River. The applicant has discussed alternative restoration plans in the application materials. Elements that were considered in the plan are described below.
- viii) MMC 19.322.9.H describes the analysis required for the alteration, addition, rehabilitation, or replacement of existing structures located within the Water Quality Resource Area. The restoration and enhancement plan does not include alteration, addition, rehabilitation, or replacement of any structure.
 - ix) MMC 19.322.9.I requires a mitigation plan containing the information described in that subsection. The applicant has provided a general mitigation plan that addresses the elements required by this section of code. As conditioned, the applicant will submit a more detailed mitigation plan when final construction documents are complete.
 - x) MMC 19.322.9.J and K require the application to include all other materials normally required for a land use application and the applicable land use application fee. The applicants have complied with these requirements.
- D. MMC 19.322.10 contains development standards for development and disturbance within the WQR areas. The Planning Commission finds that these standards are met, as described below.
- i) MMC 19.322.10.A requires that the Water Quality Resource Area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 19.322.9.E. The applicant has indicated that this standard will be met at the completion of the restoration work. As conditioned, this standard is met.
 - ii) MMC 19.322.10.B requires that, to the extent practicable, the existing vegetation shall be protected and left in place., and that work areas shall be carefully located and marked to reduce potential damage to the Water

Quality Resource Area. No vegetation removal is proposed, with the exception of invasive species removal, which is allowed outright. The applicant proposes to put temporary fencing around WQR areas where equipment does not need to travel in order to complete the in-stream work. As conditioned, this standard is met

- iii) MMC 19.322.10.C requires that where existing vegetation has been removed, the site shall be revegetated as soon as practicable. The applicant has proposed a replanting for January 2012 to ensure the highest rate of survival for the replanting. As proposed, this standard is met.
- iv) MMC 19.322.10.D requires that prior to construction, the Water Quality Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as may be allowed by this chapter, and that such markings shall be maintained until construction is complete. As described in the finding to MMC 19.322.10.B, this standard is met.
- v) MMC 19.322.10.E-G regulate stormwater pre-treatment facilities, replacement of lawful structures, and off-site mitigation. None of these standards are applicable for this project.
- vi) MMC 19.322.10.H requires site preparation and construction practices that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to the adjacent Water Quality Resource Area. The restoration work as adequately addressed this standard by providing silt and erosion control fencing, turbidity monitoring, and specified equipment staging areas. As proposed, this standard is met.
- vii) MMC 19.322.10.I and J regulate lighting and trails and viewpoints in the WQR area. Neither of these standards is applicable to this project.
- viii) MMC 19.322.10.K requires areas of trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drainage courses, except where mitigation is approved, so as to provide a transition between the proposed development and the natural resource, provide opportunity for food, water, and cover for animals located within the water quality resource. Work pursuant to the restoration and enhancement plan will not remove any native areas of shrubs or brush, and the end result will be an overall increase in the amount of contiguous native vegetation in the project area. As proposed, this standard is met.
- ix) MMC 19.322.10.L requires that stormwater flows, as a result of proposed development, within and to natural drainage courses shall not exceed predevelopment flows. This project will not add any increased impervious area, and will not result in increased stormwater flows to the WQR area. As proposed, this standard is met.
- x) MMC 19.322.10.M requires that road crossings of major natural drainage courses will be minimized as much as possible. The restoration and enhancement plan would not create any permanent road crossings and would use only a temporary bridge, if necessary during the project work itself. As proposed, this standard is met.

- xi) MMC 19.322.10 requires that the construction phase of the development be done in such a manner as to safeguard the resource portions of the site that have not been approved for development. As described above, the boundary of approved work areas will be fenced off to prevent accidental encroachment, and in-water work will only occur during times allowed by the Oregon Department of Fish and Wildlife. As proposed, this standard is met.
11. This land use application is required to be processed pursuant to MMC 19.1011.3, Minor Quasi-judicial review. The Planning Commission held a public hearing on this application on April 26, 2011. Notice of the hearing was provided as prescribed in that subsection. The review and notification procedures of this subsection have been met.
 12. Milwaukie Land Use file CPA-08-01, ZA-08-01, and HR-08-01 allowed the removal of an historic resource designation from tax lot 1S1E35AA03901. The notice of decision for that file required that the development of Riverfront Park somehow reflect the one-time presence of the Trolley Trail on this site. The Planning Commission finds that this decision affects the future design and development of Riverfront Park and does not have any bearing on the work in the restorations and enhancement plan.

The applicant has submitted materials from the Oregon State Historic Preservation Office authorizing removal of remnants from past structures in the area. The applicant has not proposed removal. However, if removal of remnants becomes necessary, the Planning Commission finds that the decision in CPA-08-01, ZA-08-01, and HR-08-01 does not prohibit such removal.
 13. Title 16 of the Milwaukie Municipal Code requires that the applicant obtain an erosion control permit prior to construction or commencement of any earth disturbing activities. As conditioned, the applicant will comply with MMC Title 16 – Erosion Control.
 14. The work proposed by the restoration and enhancement plan will occur within flood hazard areas. Prior to the start of construction, the applicant is required to submit a development permit for construction within the flood management area to the Milwaukie Engineering Department for review and approval. Full compliance with Milwaukie Municipal Code Title 18 – Flood Hazard Regulations is required with submission of the development permit. The permit shall include a “no-rise” analysis for construction of permanent structures within the Willamette floodway. As conditioned, the work done in the project area will comply with the standards of Title 18.
 15. The proposal was referred to the following agencies: City of Milwaukie Engineering Department, City of Milwaukie Building Department, and the Historic Milwaukie Neighborhood District Association (NDA) Chairperson and Land Use Committee. Additional notice of the application was provided to Oregon Department of Transportation, Oregon State Marine Board, Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Parks and Recreation Department, and the Milwaukie Design and Landmarks Committee. Comments from the Milwaukie Engineering Department are incorporated into these findings. No other comments were received.

Recommended Conditions of Approval

1. The work authorized within the project site is limited to the activity described in the application materials for File #WQR-11-01. Work outside of what is described by these materials is subject to the current zoning regulations that are applicable to the site. The Planning Director shall have the authority to determine what work falls within the outright allowance for work conducted pursuant to the natural resource management plan.
2. Prior to the commencement of any work in the project area, the applicant shall complete the following:

- A. Submit final project plans for review and approval by the Planning Department that are in substantial conformance with the plans received by the Planning Department and approved by Land Use File #WQR-11-01. To be in substantial conformance, the final plans shall have approximately the same number and placement of in-water elements as the plans in the land use application. The applicant shall submit a narrative describing any changes that affect the nature or scope of the work within the restoration plan.

The project plan shall also include: a hydraulic analysis of the flows that the in-water elements are designed for; a risk analysis for the downstream sewer line; and an analysis to determine the effects of high flow events on stream bank stability near infrastructure in the project site.

- B. Submit a plan for review and approval by the Planning Department for mitigation of the project's construction impacts. The plan shall include the following:
 - i) Description of activities to be completed prior to commencement of work and during the project work to avoid or minimize impacts to fish and wildlife.
 - ii) Description of the equipment to be used for the project and areas within the site where equipment will operate.
 - iii) Discussion of what equipment will need to cross the creek or operate within the creek. This shall include a description of the design and placement of any temporary bridge, and under what circumstances a temporary bridge is necessary.
 - iv) Fencing to keep equipment outside of areas where its presence is not necessary for project work.
 - v) Description of the storing and staging area. This shall include associated procedures ensuring the equipment and materials are free from foreign plants and other materials prior to arriving at the project site, and for ensuring that the equipment does not release oil, fuel or other hazardous into the project area.
 - vi) Location of erosion control and silt screens to be used during the project.
 - vii) Procedures for monitoring in-water work impacts, such as turbidity, and how project work will be adjusted in response.
 - viii) Procedures for restoration of areas that have been disturbed by project work.
 - ix) Monitoring and reporting of restoration and re-vegetation of the project site.

- C. Submit a development permit for construction within the flood management area to the Milwaukie Engineering Department for review and approval. Full compliance with Milwaukie Municipal Code Title 18 – Flood Hazard Regulations is required with submission of the development permit. The permit shall include a “no-rise” analysis for construction of permanent structures within the Willamette floodway.
 - D. Submit an erosion control permit for review and approval by the Milwaukie Building Department.
3. Prior to commencing work on the site, the applicant shall perform all pre-construction mitigation activity and install temporary construction fencing per the mitigation plan.
 4. The applicant shall document where removal of trees at or larger than 6 inches diameter at breast height was necessary during the restoration and enhancement work. Mitigation for these removals shall be done according to page 4 of the March 28, 2011 letter in the applicant’s materials.
 5. Final review and approval by the Planning Department is required for the activities performed to mitigate the impacts of the work done pursuant to the restoration and enhancement plan. The applicant is required to submit reports monitoring the progress of the mitigation per the approved mitigation plan. Planning Department review and approval is necessary only for mitigation of impacts from project work, and is not needed for replanting of areas of debris and invasive species removal or other general replanting within the project site.

LAND USE APPLICATION FOR WATER QUALITY RESOURCE REVIEW

JOHNSON CREEK AND WILLAMETTE CONFLUENCE
SALMON HABITAT ENHANCEMENT PROJECT

Submittal Date:

January 24, 2011

I. Summary Information

Project Summary: The Johnson Creek Watershed Council and City of Milwaukie are seeking approval of a natural resource management plan for a habitat enhancement project proposed at the confluence of Johnson Creek and the Willamette River. The project involves planting native vegetation, stabilizing stream banks, and placing logs and boulders at key points in the stream.

Site Address: (none)

Site Location: The reach of Johnson Creek from the 17th Avenue bridge, downstream approximately 1,350 ft to the confluence with the Willamette River

Property Owners: Gary & Sharon Klein, Oregon Dental Services (ODS), City of Milwaukie

Applicants: Johnson Creek Watershed Council (JCWC)
Robin Jenkinson, JCWC Restoration Coordinator
Telephone – (503) 652-7477; E-mail – robin@jcwc.org
City of Milwaukie
JoAnn Herrigel, Community Services Director
Telephone – (503) 786-7508; E-mail – herrigelj@ci.milwaukie.or.us

Legal Description: Assessor Map 1S1E35AA – Tax lots 3500, 3502, 3901, 4400, 4600, 5000

Project Area: Approximately 6.5 acres

Zoning: Residential R-2, Downtown Open Space (DOS), Downtown Office (DO), Willamette Greenway (WG) overlay

Comprehensive Plan Designation: Public (P), High Density (HD), Town Center (TC)

II. Applicable Regulations

- Milwaukie Municipal Code (MMC) Section 19.322 Water Quality Resource Regulations

Notes

Underlying Base Zones: The subject property spreads across three different underlying base zones: Residential R-2, Downtown Open Space (DOS), and Downtown Office (DO). In the context of types of activities that are allowed in any base underlying zone, the proposed activity (restoration and enhancement of a natural resource) is not “development” in the same sense that other proposed uses or activities might be.

Willamette Greenway Overlay: The definition of “development” provided for the Willamette Greenway (WG) overlay zone¹ also does not describe the proposed restoration activity. The project will result in a net increase in vegetation on the site. The project does involve some alteration of site characteristics, but those alterations are focused on the stream channel itself.

HCA designation: The City has adopted an interim version of Metro’s Title 13 code, which designates and regulates Habitat Conservation Areas (HCAs). The interim code includes an exemption for restoration and enhancement projects that are part of an approved plan (Subsection 3-E.14 of the interim HCA code). However, nowhere in the interim code is a process or criteria established for evaluating and approving such a plan. The current application is for approval of a natural resource management plan for the WQR area; if the proposed plan is approved, any related restoration/enhancement activity that will affect HCAs on the project site will in fact be in accordance with an approved plan.

III. Background Information

Site

The project area is approximately 6.5 acres and encompasses the final 1,350 river-feet of Johnson Creek where it empties into the Willamette River (see Photo 1). The stream channel within this stretch is approximately 50 to 60 feet wide and includes two large meanders between the western edge of the project area (where the creek crosses under SE 17th Avenue) and the confluence with the Willamette. Restoration and enhancement work is proposed for both the stream channel itself (with insertion of large woody debris and boulders) and the bank areas on either side. Exhibit A (Photos of Current Conditions) consists of photos taken from 10 different vantage points in the project area within the last year.



Photo 1. Johnson Creek confluence with Willamette River (looking west from the mouth of Johnson Creek)

¹ “Develop, developing” means activities which result in removal of substantial amounts of vegetation or in the substantial alteration of natural site characteristics; e.g., to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, to create or terminate rights of access. (from MMC 19.320.4)

Vicinity

The project area is bordered on the west by several single-family homes (R-2 zone) and the professional offices of ODS (Downtown Office zone). SE 17th Ave runs along much of the east side of the site, with part of city-owned Riverfront Park (Downtown Open Space zone) abutting the southeastern portion of the project area.

Land Use History

The site is a natural area that has not been formally developed, though it has been impacted by logging, some filling of floodplain areas, and excavation for sewer and electric utility infrastructure. A streetcar line operated between Portland and Oregon City from 1893 to 1958, crossing Johnson Creek within the project area. After the streetcar was discontinued, a freight service used the railway until 1968, after which time the tracks themselves were removed (although the western bridge abutment remains). Metro and the North Clackamas Parks and Recreation District purchased the historic trolley corridor in 2001 and are working to establish a multi-use path on it (referred to as the "Trolley Trail") to the south between Riverfront Park and Gladstone.

The City began regulating natural resource sites in 1989 with the establishment of the Natural Resource (NR) overlay zone. The NR overlay was replaced by the Water Quality Resource (WQR) regulations in 2002. There are several records of land use review for the site, primarily under the City's Natural Resource (NR) overlay:

- **NR-91-03:** Approval for trench excavation to install telecommunications conduit and a concrete vault about 130 ft downstream from the old SE 17th Ave bridge (which was later replaced with a new bridge by the Oregon Department of Transportation (ODOT)). All in-stream work was limited to the time window approved by the Oregon Department of Fish and Wildlife (ODFW).
- **NR-91-05:** Approval for expansion of the off-street parking area at the former Pendleton Woolen Mill site (current site of ODS). The request was in conjunction with the loss of existing off-street parking due to ODOT's replacement of the SE 17th Ave bridge and the related realignments of SE 17th Ave and SE Lava Drive. Conditions of approval included requirements for a minimum survival rate of 80% for mitigation plantings and for construction of grassy swales to handle stormwater discharge (previous discharge had been directly into Johnson Creek).
- **NR-00-01 (w/ MU-00-01):** Approval for major building and site improvements associated with ODS taking over the site. The project included planting a landscaped buffer between the building and Johnson Creek and reconfiguring on-site walkways. Conditions of approval included requirements to provide tree protection and erect barriers to prevent encroachment into the natural area during construction and to restore any disturbances within the designated NR boundary with native ground cover (at a minimum).
- **WQR-09-01 (w/ DR-09-01):** Approval for major redevelopment of Riverfront Park, including restoration of the riparian area along the south bank of Johnson Creek (Klein Point). The 2009 approval was for restoration on the upland City property to the top of bank, while the proposed project is focused on restoration work below top of bank, so the two efforts fit together seamlessly.

Proposal Description

The project is a restoration and enhancement effort that will significantly improve salmon habitat at the confluence of Johnson Creek with the Willamette River (see Exhibit B, Johnson Creek and Willamette Confluence Salmon Habitat Enhancement flyer). The proposed activities will make substantial alterations to the stream channel itself, including installation of about a dozen Engineered Large Wood (ELW) structures at key points along the reach. The ELW structures will each be constructed using approximately 7 to 10 trees (including rootwads, tree tops, and whole trees) from outside the project area. To secure the ELW structures, tree stems will be partially buried in the bank and pinned with rebar, weighted with rock ballast, and backfilled with native alluvium. Some existing boulders will be moved from the streambanks into the channel, where they will be clustered to provide breaks in the stream flow and cause gravel deposits. Eroding banks will be stabilized and planted with native vegetation and invasive plants will be removed. All work that will take place in the stream itself will be conducted during the official in-water work window allowed by ODFW (approximately July 15 to September 1, 2011).

IV. Response to Approval Criteria

As noted above in Section II, the only portion of the zoning ordinance that applies to this proposal is MMC 19.322 Water Quality Resource (WQR) Regulations. The standards of the various underlying base zones (R-2, DO, DOS) do not apply to restoration or enhancement projects like the one proposed, nor do the Willamette Greenway overlay (MMC 19.320) or the interim rules for Habitat Conservation Areas.

The following narrative is in response to the requirements of MMC 19.322:

19.322.1 Purpose, General Policies, and Declarations

Subsection 1-A notes that the WQR regulations seek to restore and enhance the community's wetland and riparian resources. The applicants are actively involved with various efforts to improve watershed health on Johnson Creek. The proposed project will make important alterations at the creek's confluence with the Willamette River that will vastly improve the conditions for federal ESA-listed threatened Lower Columbia River Chinook, Coho, and Steelhead.

19.322.2 Coordination with the Willamette Greenway Overlay

The Willamette Greenway (WG) overlay (codified in MMC 19.320) is designed to protect and enhance the unique qualities of lands along the Willamette River and its tributaries, including views toward and away from the river. This subsection establishes an allowance for some disturbance within WQR areas as needed to maintain view corridors. The proposal will remove existing nuisance vegetation from parts of the project area and will plant new native vegetation throughout the site. However, the project is not concerned with deliberate maintenance of view windows or corridors and the allowance provided by this subsection is not necessary.

19.322.3 Applicability

The WQR regulations apply to all properties containing protected water features as identified on the City's WQR maps. Both the Willamette River and Johnson Creek are

primary protected water features and are identified on the City's WQR maps. The WQR regulations of MMC 19.322 are applicable to this proposal.

19.322.4 Activities Permitted Outright

Subsection A notes that restoration and enhancement projects are allowed outright when those projects are in accordance with an approved natural resource management plan. The purpose of this application is to gain approval of the proposed natural resource management plan, which will allow the project work itself to proceed without a need for further review by the City.

19.322.7 Activities Permitted Under Minor Quasi-Judicial Review

Subsection H lists natural resource management plans as something that needs review and approval by the Planning Commission (minor quasi-judicial or Type III review). This application has been submitted to obtain approval a plan developed by the Johnson Creek Watershed Council (JCWC) for restoration and enhancement work at the confluence of Johnson Creek and the Willamette River.

19.322.9 Application Requirements

Applications for minor quasi-judicial review are required to provide a number of specific items for evaluation by the Planning Commission:

A. Topographic site map

Sheet 1 (Water Quality Resource Area Map) in Exhibit C (Existing Conditions Maps) shows the topography of the project area (1-ft contours) as well as a demarcation of the WQR areas on the site. The Willamette River and Johnson Creek both fit the definition of "primary protected water feature," and the WQR area designated on the site includes a 50-ft-wide vegetated corridor extending away from the water starting at the top of bank. Sheet 2 (HCA Map) in Exhibit C shows the designated Habitat Conservation Areas (HCAs) on the site.

B. Natural features

Trees with a caliper of at least 6 inches diameter at breast height (DBH) are demarcated on Sheet 3 (Tree Map) and Sheet 4 (Milwaukie Riverfront Park Site Plan, page 1D) in Exhibit C. Sheet 5 (Habitat Map) in Exhibit C shows details of the streambed substrate, including boulder clusters.

C. Location of wetlands

The project area is a riparian corridor at the confluence of Johnson Creek and the Willamette River. According to the City's WQR maps, no delineated wetlands have been identified on the site.

D. Inventory of debris

The project area is the focus of a years-long effort to improve the stream habitat by removing invasive non-native vegetation and replacing it with appropriate native vegetation, while removing garbage and similar debris. No substantial areas of debris or noxious materials are present on the site.

E. Assessment of WQR area

Thanks to ongoing small-scale efforts to restore and enhance the project area, much of the site is in either Good condition (western bank) or Marginal condition (eastern bank adjacent to 17th Ave), as defined in Table 19.322.9.E. Sheet 1 (Water Quality Resource Area Map) in Exhibit C shows the assessed condition of particular parts of the project area.

F. Vegetation inventory

Sheet 3 (Tree Map) in Exhibit C presents an inventory of the largest trees on the site (over 6 inches in diameter at breast height). Excluding the stream itself, approximately 80% of the project area is covered by tree canopy and another 15% by other groundcover, with no significant bare areas.

G. Alternatives analysis

JCWC retained River Design Group, Inc. (RDG) to design the proposed restoration and enhancement plan. RDG is based in Corvallis, Oregon, and has extensive experience designing in-stream habitat improvement projects throughout the Willamette River basin and the Pacific Northwest. RDG has a deep understanding of engineered log jams and log placement, hydrologic and hydraulic modeling, fisheries biology, and fluvial geomorphology. RDG used hydraulic modeling and analysis to determine what conditions would be most suitable to the salmonid fishery at the confluence of Johnson Creek and the Willamette River. The proposed natural resource management plan is based on the results of that analysis.

As required by this subsection, a proposal must provide satisfactory responses to the following criteria:

1. No practicable alternatives

By its very nature, restoration work “disturbs” the resource area, though it does so for positive impact that enhances the resource. While some enhancement approaches may be more or less effective than others, restoration is, by definition, a positive thing for the resource. The primary alternative to enhancing the resource area on the project site is to do nothing to improve the resource, which is counter to the intent of the WQR regulations as expressed in MMC 19.322.1.A.

2. Limited disturbance

The proposed project involves installing several large engineered wood habitat structures and relocating sizeable boulders within the stream channel. This work requires that some large equipment will need access to the project site. An existing graveled road extending from SE Riverway Lane will be used along the western bank of Johnson Creek.

If necessary, a temporary bridge or low-water stream crossing will be installed near the 5+00 mark along the reach (see Sheet 5.0 in Exhibit D, Habitat Enhancement Plan Set). The stream crossing is designed and located to have as little impact on the resource area as possible and will be removed prior to project completion. If a bridge crossing is used, it will lay a temporary bed across existing concrete abutments. Erosion control measures will be in place throughout the project period (see Sheets 5.0 and 5.1 in Exhibit D) and all of the in-stream work will be limited to

the time period allowed by the Oregon Department of Fish and Wildlife (July 15 until September 1, 2011, depending on weather and stream conditions).

3. *Restoration*

The primary objective of the proposed project is to improve the conditions of the resource area, which is a “wildland” area (undeveloped) in Good to Marginal condition, as categorized in MMC Table 19.322.9.E. Disturbed soil areas will be replanted with native vegetation, infilling where gaps exist. Throughout the project area, invasive plants will be removed and replaced with native vegetation selected from the schedule for “Mixed Coniferous/Deciduous Riparian Forest” found in the Portland Plant List (see Exhibit E). The installation of large engineered wood habitat structures and boulders in the stream itself will greatly improve the quality of fish habitat.

4. *Rationale*

Four alternative approaches were explored en route to arriving at the proposed restoration project:

Alternative 1 looked at the feasibility of removing old abandoned sewer pipes and their concrete casings, which exist in various parts of the project area. The concrete is primarily cast on existing bedrock and therefore acts as a bank stabilization structure. Removal of the concrete would compromise hillslope stability along the stream channel and was not recommended because it would provide only marginal benefits at a relatively high cost and would require additional bank stabilization. Geomorphologist Janine Castro with the U.S. Fish & Wildlife Service was consulted regarding this alternative.

Alternative 2 considered the strategic placement of engineered large wood habitat structures to enhance in-stream complexity and promote inundation within the floodplain and partitioning of the stream flow. Recent studies have shown that large woody debris in streams can slow the movement of water-borne sediments, deposit and sort gravel for spawning beds, scour out pools, and increase in-stream nutrients by retaining salmonid carcasses. All of these improvements appear to increase the survival rate for salmonid species.

Alternative 3 included the development of off-channel alcove habitats, which provide favorable conditions for fish rearing and holding as well as for bird and amphibian wildlife.

Alternative 4 combined the features of Alternatives 2 and 3, with the additional element of strategically placing boulder clusters in areas of the channel with exposed bedrock substrate to effect gravel deposition and streambed aggradation and provide hydraulic complexity to enhance fish habitat.

Final Design – After reviewing these different approaches, JCWC has decided to pursue what essentially amounts to Alternative 2, the strategic placement of large woody debris in the stream channel. The project approach also includes the placement of in-stream boulders and a channel-spanning log to help retain gravel deposits that will build the channel profile over time. The option for alcove development was not pursued because the anticipated benefits do not warrant their

high cost and the Oregon Watershed Enhancement Board technical review team raised concern that alcoves could silt in quickly during high-water events.

H. Replacement of existing structures

An active City of Milwaukie sewer pipe crosses Johnson Creek near the 10+75 mark along the reach (see Photo 2). The 12-inch pipe is above the streambed but creates a small falls in the summertime, when the site is not backwatered by the Willamette River. In designing this project, the applicant worked with City of Milwaukie Engineering staff to evaluate the feasibility of excavating into the streambed to relocate the pipe underground. Given the expense of relocating the pipe, a decision has been made to leave the pipe in place. It will simply be covered with round rocks to create a riffle that integrates more naturally with the existing longitudinal profile (see Exhibit F, Constructed Riffle over Sewer Line Crossing). No existing structures will be replaced.

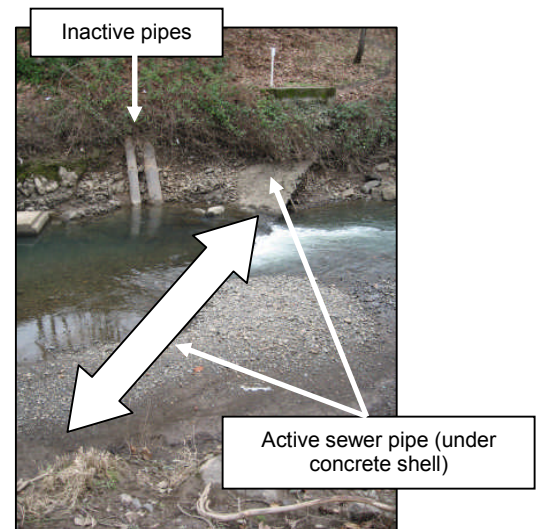


Photo 2. City of Milwaukie sewer pipe crossing Johnson Creek

I. Mitigation plan

1. Adverse impacts

Equipment will access the area via an existing gravel road along the western bank of the Johnson Creek. A decision has been made not to construct the short gravel access road from 17th Ave shown on Sheet 5.0 of Exhibit D (Habitat Enhancement Plan Set). However, a temporary low-water crossing might be necessary to allow access to both sides of the stream. This crossing will take the form of a temporary bridge or isolated low-water crossing and will only be in place during the ODFW window allowed for in-water work (approximately July 15 to September 1, 2011).

Equipment will be positioned on the bank above the stream to assist with installation of the large engineered wood habitat structures and placement of boulders, but some in-stream work will also be necessary. In all likelihood, there will be no equipment in the creek itself, except perhaps a machine called “the spider” that has four small legs and can walk through streams to place wood with minimal disturbance. Use of such equipment will be up to the construction contractor and will depend on what equipment they have available.

2. Avoiding/minimizing impacts

The existing gravel roadway will prevent heavy equipment from gouging the ground in the project area. Disturbed areas will be replanted with native vegetation. Silt fencing and other measures will be installed to control erosion and limit unnecessary disturbance to the resource area. If needed, the temporary stream crossing will protect the bottom of the stream bed from excessive damage by people and equipment. Prior to construction, JCWC will conduct a salvage of native freshwater mussels so they will not be crushed and killed during in-stream construction.

Mitigation measures are part of the larger plan for restoration and enhancement of the project area. The requirements established in MMC Table 19.322.9.E will be met throughout the project area and not just in the specific places that are disturbed. All debris and noxious materials will be removed. Bare areas as well as other parts of the site that are deemed appropriate for planting will be vegetated with native plants. Revegetation is scheduled for January 2012, within the primary planting season following the in-stream work. The site will be monitored through September 2014, and plants that do not survive will be replaced.

3. *Responsible parties*

Property owners: City of Milwaukie, North Clackamas Parks and Recreation District, ODS, Gary and Sharon Klein

Applicant: Robin Jenkinson, JCWC Restoration Coordinator and JoAnn Herrigel, City of Milwaukie Community Services Director

Contractor(s): To be determined by a Request for Proposals expected to be issued in Spring 2011

4. *Mitigation map*

Sheets 5.0 and 5.1 in Exhibit D (Habitat Enhancement Plan Set) show where erosion control measures will be installed. Throughout the project area, invasive plants will be removed and disturbed areas will be replanted and replaced with native vegetation selected from the schedule for "Mixed Coniferous/Deciduous Riparian Forest" found in the Portland Plant List (see Exhibit E).

5. *Implementation schedule*

See Page 7 in Exhibit G (Specific Restoration Project Activity narrative) for the proposed project schedule. In-stream work will be conducted within the timeframe established by ODFW, approximately July 15 through September 1, 2011.

J. *Application forms*

An application form for WQR review and the Submittal Requirements checklist are included with this submittal. The project area is comprised of several properties under different ownership, so the necessary signatures authorizing the applicants to submit the application on their behalf have been collected and are included with this submittal.

K. *Fee*

The application fee has been waived because the City of Milwaukie is a partner and the co-applicant for this project. However, the fee required to cover the costs of reviewing the technical report (\$1,500) is included with the application submittal.

19.322.10 Development Standards

Applications for land disturbance on properties containing WQR areas are required to demonstrate compliance with the following standards, as applicable:

A. *Restore the WQR area*

The sole purpose of the project is to enhance the condition of existing habitat within the project area, which includes both WQR area and HCAs. By approving the proposed natural resource management plan, the Planning Commission will authorize the

applicant to carry out the project and its attendant mitigation measures, which have been addressed above in response to MMC 19.322.9.I

B. Protect existing vegetation

Except for the invasive vegetation that will be removed, existing vegetation will be protected and left in place to the extent possible. Where existing vegetation must be removed to allow access for equipment and materials, it will be replaced prior to completion of the project. Work areas will be marked to limit potential damage to the resource area.

C. Revegetate as soon as possible

Planting is scheduled for January 2012, a few months after the completion of in-stream work. Bare-root stock will be used for planting, as it is much less expensive than container stock and performs just as well if planted correctly. Survival rates for bare-root stock are highest if planted mid-winter (January) rather than fall (October – December).

D. Flag and fence the WQR area

Because the restoration work will be occurring within the WQR area (and HCAs), it is not practicable to flag the entire resource area. Work areas will be marked to reduce the potential for unnecessary disturbance to the resource area.

E. Stormwater Pretreatment Facilities

The project does not involve stormwater pretreatment facilities.

F. Replacement of Lawful Structures

The active 12-inch City sewer line that crosses the stream near the 10+75 mark along the reach will be covered with round rocks to create a riffle that integrates well with the existing longitudinal profile (see Exhibit F, Constructed Riffle over Sewer Line Crossing). No existing structures will be replaced as part of this project.

G. Off-site mitigation

No off-site mitigation is proposed. Any impacts relating to disturbance of the resource will be mitigated on the project site.

H. Prevent runoff to WQR area

Erosion control measures will be installed and maintained throughout the project as shown on Sheets 5.0 and 5.1 of Exhibit D (Habitat Enhancement Plan Set).

I. Shield lights

The proposal does not include establishment of any permanent lights. In the event that site lighting is necessary during the project itself, lights will be shielded to minimize impacts to other parts of the resource area on the site.

J. Minimize impacts from trails, viewpoints, etc.

No trails, viewpoints, or other visitor amenities are proposed as part of this project.

K. Preserve existing corridors of canopy and natural vegetation

The entire project area is designated as either WQR area or HCA and no development is proposed, so the requirement to provide a transition between development and the resource is not applicable. Except for the removal of invasive plants and the removal of vegetation necessary to allow equipment access to the site, existing vegetation will

remain in place. Additional plantings will increase the overall connectivity of vegetation on the site.

L. Limit post-development stormwater flows

No development is proposed, so no new stormwater flows will result from this project.

M. Minimize road crossings

If necessary, a temporary bridge or low-water stream crossing will be installed near the 5+00 mark along the reach (see Sheet 5.0 in Exhibit D, Habitat Enhancement Plan Set). The stream crossing is designed and located to have as little impact on the resource area as possible and will be removed prior to project completion. If a bridge crossing is used, it will lay a temporary bed across existing concrete abutments.

N. Protect resource areas not approved for disturbance

Work areas will be marked to limit unnecessary disturbance to the resource. In-stream work will be conducted within the window of time established by ODFW.

Conclusion

The applicants are seeking approval of the submitted project plan as a natural resource management plan to allow the proposed enhancement project as an exempt activity under MMC 19.322.4.A. The plan has been prepared utilizing the expertise of the River Design Group, which has extensive experience with this kind of restoration project. The applicants assert that the proposed project will more than adequately mitigate any temporary disturbance or negative impacts due to the movement of equipment on the site and the in-stream work required to install beneficial engineered wood habitat structures and relocate boulders. The proposed project will greatly improve salmon habitat by enhancing the riparian corridor and stream channel at the confluence of Johnson Creek and the Willamette River.

Exhibits

- A. Photos of Current Conditions
- B. Johnson Creek and Willamette Confluence Salmon Habitat Enhancement flyer
- C. Existing Conditions Maps
 - Sheet 1 – Water Quality Resource Area Map
 - Sheet 2 – HCA map
 - Sheet 3 – Tree Map
 - Sheet 4 – Milwaukie Riverfront Park Site Plan, page 1D
 - Sheet 5 – Habitat Map
- D. Habitat Enhancement Plan Set (*from successful permit application to ACOE/DSL*)
 - Sheet 1.0 Cover Page and Notes
 - Sheet 2.0 Existing Conditions
 - Sheet 2.1 Existing Cross Sections
 - Sheet 3.0 Large Wood
 - Sheet 3.1 Large Wood (No Photo)
 - Sheet 4.0 Engineered Large Wood Habitat Structure
 - Sheet 4.1 Boulder Detail

- Sheet 4.2 Vegetated Soil Lift
- Sheet 4.3 Channel Spanning Log
- Sheet 5.0 Erosion Control and Work Area Isolation
- Sheet 5.1 Erosion Control Details

- E. Portland Plant List, Section 2.2 – Mixed Coniferous/Deciduous Riparian Forest
- F. Constructed Riffle over Sewer Line Crossing
 - 1. Engineer's Letter Report
 - 2. Preliminary Design Summary
- G. Specific Restoration Project Activity narrative (*from OWEB Restoration Grant Proposal*)

Johnson Creek and Willamette Confluence Salmon Habitat Enhancement

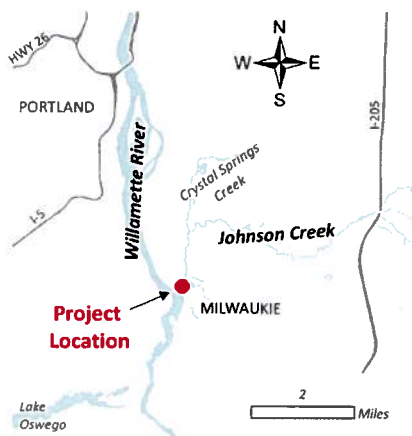
Art by Gary Michael

Better Salmon Habitat in Johnson Creek

The Johnson Creek Watershed Council and partners plan to enhance instream habitat and restore streamside forests at the mouth of Johnson Creek, from where it flows under SE 17th Avenue to its confluence with the Willamette River. The goals of the project are to provide refuge areas for salmon and trout, restore six acres of riparian forest, and provide opportunities for the public to participate in and learn about wildlife habitat conservation. To enhance fish habitat, we plan to construct sixteen engineered log jams throughout the quarter-mile-long reach and place boulders and logs in two areas of exposed bedrock in the creek.

Confluence Rest Stops for Willamette River Salmon

Confluences are “ecological hotspots” because they are dynamic mixing areas of different water temperatures, chemistries, and flow regimes. By enhancing this confluence area, this project will provide a much-needed refuge for Willamette River salmon just upstream of Portland’s “downtown gauntlet,” where dense industrial development and cement sea walls have left few resting areas and little protective cover for migrating fish. Oregon Department of Fish and Wildlife biologists highlight how all the threatened Coho and Chinook salmon and Steelhead trout in the middle and upper Willamette Basin—an area with over 11,000 miles of rivers and streams—pass by the mouth of Johnson Creek, and will benefit from this project.



A Ribbon of Green

Johnson Creek is one of few Portland streams with active runs of threatened Coho, Chinook, and Steelhead. The creek is a 26-mile-long green corridor for birds and wildlife that is fed by 52 square miles of tributaries and hillslopes. This project complements the over 400 restoration projects that have been implemented throughout the Johnson Creek Basin over the past twenty years.

For more information or to make
a donation to the project, contact



**Johnson Creek
Watershed Council**
1900 SE Milport Road
Suite B
Milwaukie, OR 97222
503-652-7477
robin@jcw.org

Construction Begins Summer 2011

We’ve already secured over \$200,000 for project implementation—about 70% of the total funding needed. We are actively pursuing additional funding opportunities, and we are confident that the funding gap can be filled in time to build the project in July and August, 2011. Native plantings will occur in winter, 2012.

Public Participation in Salmon Recovery

This highly visible project is an opportunity for local citizens to engage in environmental restoration and salmon recovery in Johnson Creek and the Lower Willamette River. For example, high school groups are already monitoring the site so we can document habitat improvements before and after the project is implemented. Plus, at the north end of Milwaukie Riverfront Park, an interpretive overlook and trail is planned for construction. The overlook will provide information about salmon and other wildlife that use the site and benefit from the project.

Partners

Oregon Dental Services (ODS)
Gary and Sharon Klein
City of Milwaukie
Oregon Watershed Enhancement
Board (OWEB)
PGE Salmon Fund
FishAmerica Foundation
City of Portland

The goals of the project are

to provide refuge areas for salmon and trout, restore six acres of riparian forest, and provide opportunities for the public to participate in and learn about wildlife habitat conservation

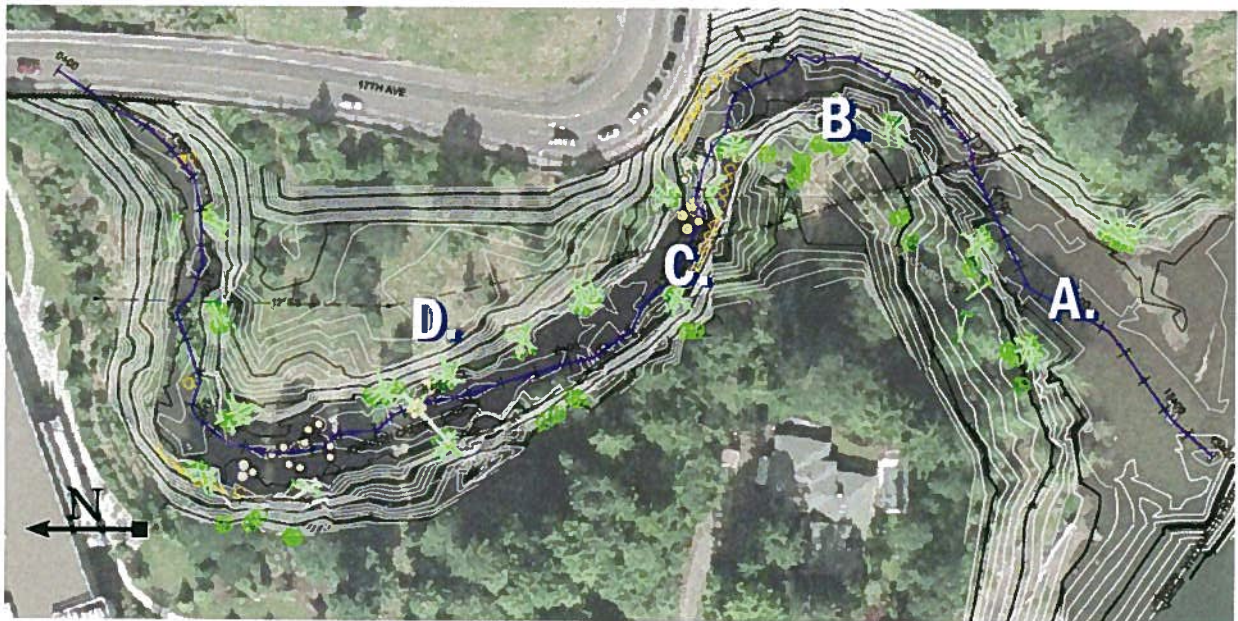
A. Johnson Creek enters the Willamette River in downtown Milwaukie.



B. Engineered log jams will provide shelter for migrating fish.



C. Vegetated soil wraps will help stabilize new stream banks.



D. Volunteer participation includes planting native trees and shrubs.



Invasive weeds will be cleared and replaced with native seedlings.



Regular project effectiveness monitoring will document habitat improvements.



March 7, 2011

Robin Jenkinson
Johnson Creek Watershed Council
1900 SE Milport Road, Suite B
Milwaukie, OR 97222

File: WQR-11-01

Site: Johnson Creek –SE 17th Avenue to the mouth of the creek

Dear Ms. Jenkinson:

The City's water quality resource consultant has completed a review of the materials in the application for the restoration project at the mouth of Johnson Creek (File# WQR-11-01). Their review is attached to this letter. The review notes multiple places in the application materials where more information or analysis should be provided. This letter is to identify the items from the review that the City would like addressed prior to holding a hearing on the land use application. Items listed in the review memo but not in this letter are either minor suggestions for consideration or issues that can be addressed as the final plans for the project are completed following land use approval.

Items to Address

1. Describe if the project will be phased, and if so, what work will be completed in each phase and the expected timing of the phases.
2. Respond to the comment in point 1 on page 2 of the memo that boulder clustering is not necessary to stabilize the stream because the existing bedrock outcrops provide this function. If boulders are not needed for stabilization, would the other functions of the boulders, such as stream complexity, be better served by other types of in-water features?
3. Describe the stream bank stabilization in more detail. Identify which portions of the stream bank will be stabilized. In the broader context of the project, describe the decisions regarding stabilizing stream banks versus allowing some stream bank erosion.
4. Describe any restrictions that PGE has with regard to replanting within parts of the project area where they have easements or other requirements. Indicate whether PGE has been contacted regarding this project.
5. Clarify whether there will or will not be equipment entering the creek. Identify the equipment storage and staging areas on the site plans. Include a narrative description in the plan about equipment storage and staging area. Describe

COMMUNITY DEVELOPMENT
BUILDING • ECONOMIC DEVELOPMENT • ENGINEERING • PLANNING
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97206
P) 503-786-7600 / F) 503-774-8236
www.cityofmilwaukie.org

- procedures for minimizing impacts from equipment brought and stored in the area, such as distance from the creek, containment of the storage and staging area, and inspection for fuel and hydraulic leaks and cleaning of equipment.
6. Provide more detail regarding the use of a temporary bridge for the project. Is it certain that a bridge will be used? If not, explain the circumstances that would necessitate use of a temporary bridge. Describe the potential impacts of the bridge and the measures to mitigate any impacts.
 7. Vegetation
 - a. The vegetative inventory should include information about the dominant species in each vegetation layer – tree, shrub, and herbaceous plants.
 - b. Identify any trees that will or may need to be removed for this project, including size, species, and proposed mitigation.
 - c. The vegetative canopy calculations do not total 100% and should be corrected to describe the entire project area.
 - d. Include a draft revegetation plan for the project site that identifies the proposed locations and species.
 8. On the project plans, note the location of a natural spring that discharges through a pipe to Johnson Creek, and include the project study area boundary identified in Exhibit C, Sheet 3 on the maps within the application.
 9. Describe the duration of in-water work events and the total number of hours of in-water work anticipated (see last bullet on Page 4 of the ESA memo).
 10. Post-project
 - a. Describe how the project will be monitored and evaluated following completion of the work. This includes the in-water and stream bank features as well as revegetation.
 - b. Include contingency measures if the project has unanticipated results or project elements do not function as envisioned.
 - c. Describe long term plans for maintenance of the vegetation, stream bank, and in-water elements of the project.
 11. Identify if the project would remove any of the remnants of the former Portland Traction Line bridge that crossed Johnson Creek. If removal is proposed, identify why it is necessary for the project.

The requested information can be grouped together as an addendum to the original application materials. The narrative information may be put into one document. It is not necessary to revise the existing narrative of the application materials. Only the site plans that require some modification need to be included in the addendum.

The updated information needs to be received by Monday, March 14, 2011 to allow for a hearing on Monday, April 12, 2011, or received by March 28, 2011 for hearing on April 26, 2011. We will make every effort we can to put the application before the Planning Commission in order to meet the timeline for allowed in-water work this summer. Please feel free to contact me at **503-786-7658** or via email at **marquardtr@ci.milwaukie.or.us** should you have any questions.

Sincerely,



Ryan Marquardt, AICP

Associate Planner

CC: JoAnn Herrigel, Community Services Director (via email)
Katie Mangle, Planning Director (via email)
Brett Kelder, Associate Planner (via email)
Brad Albert, P.E., Civil Engineer (via email)
Land Use File #WQR-11-01

City Staff responses to ESA Adolfson February 28, 2011 Memorandum

This response list is a summary of how the issues raised by ESA Adolfson in their review memorandum have been answered by the application and/or addressed in the land use review process.

Page 1:

- Regarding project phasing, the applicant's response, dated March 22, 2011, indicated that they intend to complete in-water work this year. The work would continue into 2012 only if unforeseen problems arise.

Page 2:

- Item 1 – The applicant has generally addressed points about letting banks erode versus stabilizing banks in their 3/22/11 responses. The questions about hydraulic assessment have been incorporated into the conditions of approval for review once the applicant has completed their final plans.

Page 3 and 4:

- Item 2 – The applicant reports that they have consulted with PGE and will plant appropriate species within their right of way. The applicant has provided a more detailed list of species to be replanted based on the existing plant communities identified on site.
- Item 3 – Applicant has stated that only one access to the site will be used. A condition of approval is recommended to require review of the specific erosion control and mitigation items for the project work.
- Item 4, Incomplete Information
 - 19.322.9.A – Engineering Department will evaluate 100-year flood line during their review under Title 18.
 - 19.322.9.B – applicant has indicated location of the spring on their plans.
 - 19.322.9.F – applicant provided revised map showing existing plant communities. They have indicated that they do not intend to remove trees. They have also corrected their coverage calculations in the 3/22/11 response.
 - 19.322.9.I – The applicant has provided responses to these items in their 3/22/11 response. They are not able to provide details on some items until their final construction plans are done. As a condition of approval, these final plans will be evaluated by the City prior to construction.

Page 5: ESA did not have any substantive issues related to the project on this page.

MEMORANDUM

TO: Community Development Department
THROUGH: Gary Parkin, Director of Engineering
FROM: Brad Albert, Civil Engineer
RE: WQR-11-01
Johnson Creek Restoration Project
DATE: February 15, 2011

Proposal: Restoration of Johnson Creek at the Willamette River confluence.

RECOMMENDED CONDITIONS OF APPROVAL

None

ADVISORY NOTES**Flood Management Area Requirements**

Prior to the start of construction, the applicant is required to submit a development permit for construction within the flood management area to the Milwaukie Engineering Department for review and approval. Full compliance with Milwaukie Municipal Code Title 18 – Flood Hazard Regulations is required with submission of the development permit. The permit shall include a “no-rise” analysis for construction of permanent structures within the Willamette floodway.



To: Planning Commission
Through: Katie Mangle, Planning Director *KM*
From: Brett Kolver, Associate Planner
Date: April 19, 2011, for April 26, 2011, Public Hearing
Subject: Natural Resource Amendments to Comply with Metro Title 13
Files: ZA-11-01 & CPA-11-01
File Types: Zoning Ordinance Amendment and Comprehensive Plan Amendment
Applicant: Katie Mangle, Planning Director, City of Milwaukie

ACTION REQUESTED

Recommend that City Council adopt the proposed amendments to Milwaukie Comprehensive Plan Chapter 3 and Milwaukie Municipal Code Title 19 Zoning Ordinance with the proposed ordinance and recommended findings in support of approval.

BACKGROUND INFORMATION

The Planning Commission opened the public hearing on the proposed amendments on March 22, 2011. The March 22 hearing was continued to April 12 and again to April 26, 2011. Please refer to the March 22 and April 12 staff reports for additional background information.

History of Prior Planning Commission Actions and Discussions

- **April 12, 2011:** Planning Commission heard additional public testimony and continued the public hearing to April 26, 2011.
- **March 22, 2011:** Planning Commission held the first public hearing on the proposed code amendments and continued the hearing to April 12, 2011.
- **January 11, 2011:** Worksession to prepare for adoption hearing, with a recap of Draft 4 version of the proposed amendments, including the latest list of exempt activities and other activities grouped by review type.
- **September 28, 2010:** Worksession focused on adjustments and variances, and the distance to be used to trigger the new regulations.
- **August 24, 2010:** Worksession on project progress, review of Draft 3 of the proposed amendments.

- **June 8, 2010:** Joint meeting with Natural Resource Advisory Group to discuss significant issues.
- **April 27, 2010:** Worksession on project progress, review of Draft 2 of the proposed amendments.
- **July 28, 2009:** Second of two-part worksession on the City's strategy for complying with Metro's Title 13 (Nature in Neighborhoods). The Commission gave staff direction to pursue the approach that has resulted in the draft amendments.
- **July 14, 2009:** First of two-part worksession on the City's strategy for complying with Title 13.
- **October 14, 2008:** Staff briefed the Commission on options for the City to comply with Title 13.
- **July 8, 2008:** First worksession briefing on requirements of Title 13.

In addition, staff has held a total of four worksessions with City Council related to the proposed code amendments since the project began. This includes a study session on February 22, 2011, to prepare Council for the upcoming adoption hearing.

COMMENTS ON THE PROPOSAL

The Planning Commission held the first public hearing on the proposal on March 22, 2011. Staff presented specific modifications to the proposal and seven people testified, raising questions and suggesting changes to the proposal. The Commission continued the hearing to April 12, 2011, to allow for additional public comment and to give staff time to respond to the issues raised.

For the April 12 hearing, staff prepared a revised version of the proposed amendments to incorporate the suggestions presented on March 22. Five people presented additional testimony and responded to questions from the Commission. The Commission closed the public portion of the hearing and postponed deliberation on the proposal, continuing the hearing to April 26, 2011. The record remains open for additional public comment and the April 26 hearing will begin with deliberation by the commissioners. The hearing may be reopened for public testimony at the discretion of the Commission.

Issues for Further Discussion

At the close of the April 12 hearing, the Commission identified a number of issues that warrant further discussion prior to making a recommendation to City Council. The Commission agreed to focus its deliberation on providing staff with clear direction on modifying the proposal. The issues identified by the commissioners, in no particular order, are as follows:

1. 150-square-foot threshold

What amount of disturbance will trigger the need for a Construction Management Plan and determine the level of review needed for various activities?

2. Division of high-percentage resource properties

Should there be any limitation on the partitioning or subdividing of properties that are mostly designated as WQR and/or HCA?

3. Language = Use of "possible" versus "feasible" versus "practicable"

What words are most appropriate in those various subsections where some discretion is allowed in meeting a particular standard?

4. Home exemptions from HCA rules

Should residential uses that are in place when the proposed amendments become effective receive any exemption from the new HCA rules, as suggested in the Title 13 model ordinance?

5. Tree removal

Do the proposed amendments adequately handle the many possible scenarios for tree removal from WQRs or HCAs, particularly when development is not involved and/or for existing landscaped areas?

6. Waiving or reducing fees for WQR / HCA applications

Is fee reduction a viable way to reward private property owners for the public benefits that WQR and HCA features provide? Are there any tax-assessment or -abatement programs already in place to account for the public benefits of natural resources on private properties?

7. Prohibition language

Is the language in Subsection 19.402.5.A unnecessarily limiting, regarding prohibition of activities not otherwise allowed by the Natural Resource regulations?

8. Categorization of WQR conditions

In Table 19.402.11.C, are there workable alternatives to the category headings that describe the condition of WQRs—"Good," "Marginal," and "Degraded"? In addition to amending their titles, is it possible to redefine those categories and/or to expand their spectrum?

Staff has a number of ideas in response to these issues and the public testimony and is working on possible solutions. Staff will incorporate these ideas into the next draft of the proposed amendments as appropriate, given the direction received from the Commission on April 26.

RECOMMENDATION

Recommendation Deadline

Because this application is a legislative proposal, there is no deadline by which the City must make a final decision on the application. However, the original deadline set by Metro for City compliance with Title 13 (beyond the interim measures enacted by the Planning Director on June 1, 2009) was November 2009. Metro granted the City a one-year extension to November 2010, and the City is requesting a second one-year extension.

The proposed amendments and other project documents are available online at:
<http://www.ci.milwaukie.or.us/planning/natural-resource-overlay-project>.



MILWAUKIE

Dogwood City of the West

To: Planning Commission and Design and Landmarks Committee

From: Katie Mangle, Planning Director

Date: April 15, 2011, for April 26, 2011, Worksession (PC) and April 27, 2011, Worksession (DLC)

Subject: Responses to Kellogg Bridge questions

ACTION REQUESTED

None. TriMet staff has provided the following information in response to some of the questions asked during the discussion of the Kellogg bridge on March 17, 2011. Staff is working with TriMet to schedule a follow-up discussion of the overall bridge design in late spring.

BACKGROUND INFORMATION

A. History of Prior Actions and Discussions

- **March 17, 2011:** Joint worksession to review and discuss the design of the light rail bridge over Kellogg creek.

B. Responses to Questions

Some fact-finding questions were asked during the discussion of the bridge, and TriMet structural engineering staff has provided the following answers. The design team is continuing to work on the bridge, and will likely schedule another joint work session in late spring.

Question:

How does the height and length of the Kellogg bridge compare with the I-205 light rail bridge over Johnson Creek Blvd?

Answer:

The Kellogg bridge will be just short of 1675' in length with varying vertical clearances up to about 17'-6" (under the bridge). The green line JCB bridge is about 1405 feet long. Clearance underneath the bridge ranges from a typical of 18' to one point that is 40'. The south end is a bit lower.

Question:

Can you explain the single-concrete tub design of the Sound Transit example and why that wasn't considered in Milwaukie?

Answer (provided by TriMet structural engineer Calvin Lee):

I understand that the DLC was asking some questions about the Sound Transit concrete tub picture shown in the presentation (see Attachment 1) and you were looking for some responses to their questions. Attached is some information regarding the Sound Transit design (see Attachment 2).

Of note:

- Sound Transit's minimum elevated structure width is 28 feet. There is no standard clear zone on the outboard side. They clear to the middle. They do have a wider [cross-section] that clears to the outside but it appears they limit that [cross-section's] use.
- The bridge section shown in the DLC presentation is the one with 15'-9" track to track and 6'-0" track to edge. My understanding is that the shape begins to change as the width increases all the way up to using additional struts (bottom of the tub to the edge of the overhang) in the wider sections.
- The pictures suggest precast post-tensioned segmental construction. It's a curious choice of construction method considering the site conditions but that is solely my opinion. I can't quite tell but I think I see a central column that comes up into the tubs (at least in the near spans). I hope so 'cause if not, then the bent connections are all "hinges" or "rollers" which doesn't make sense and maybe suggests that temporary works were used to hold up the segments before they are tensioned together. The temporary works would be a significant cost add.
- This tub is a specialty shape. I haven't seen anyone in Oregon make this shape yet.
- The segment lengths appear to be about 6' or 7' which implies that the span lengths are somewhere around 70 to 80 feet. Increasing the span length will change the tub size (make them deeper).
- It would take one heavy haul truck to deliver one segment to the site. It would take about 13 or 14 trucks to deliver about 80 feet of tubs. It will also take that many crane picks to get them up in the air.
- If I'm wrong and those vertical lines are not segment pieces but purposeful lines left by the formwork in a cast-in-place construction process, then the temporary works significantly increases.

By comparison:

- TriMet's minimum width is 32 feet with clear zones to the outboard side and in the middle.

- Kellogg span lengths are in the range of double (or maybe a bit more) the above discussion.
- Depending on where the splices are, the Kellogg tubs can be delivered to the site in 4 to 6 trips using a tractor and suicide car / dollies as opposed to 30-ish heavy hauls (think traffic impacts) from the above for the same span length.
- Number of crane picks are less as well.

...This just feels like an expensive way of doing this relative to what you're getting out of it in the end. I like our way better.

Question:

Can you provide some local examples of weathered steel that committee members may visit to better understand the material?

Answer:

- There are many examples around the region, but here are a few:
 - On the Springwater Corridor Trail – the bridge over the UP tracks just east of McLoughlin Blvd.
 - On US 26 west of Portland, the Canyon Rd overpass has weathered steel canted tubs. The overpass just east of Jackson School Rd is made of weathered steel I-beams.
 - On the I-205 bike path, the bike-ped bridge over Johnson Creek (near the Flavel Street light rail station) is made of weathered steel.

ATTACHMENTS

1. The image of the Sound Transit light rail structure shown at the March 17, 2011, meeting. The architect presented this image as an example of how a concrete column could be enhanced, but several committee members were intrigued by the shape of the tubs.
2. Structural section of the Sound Transit light rail bridge.



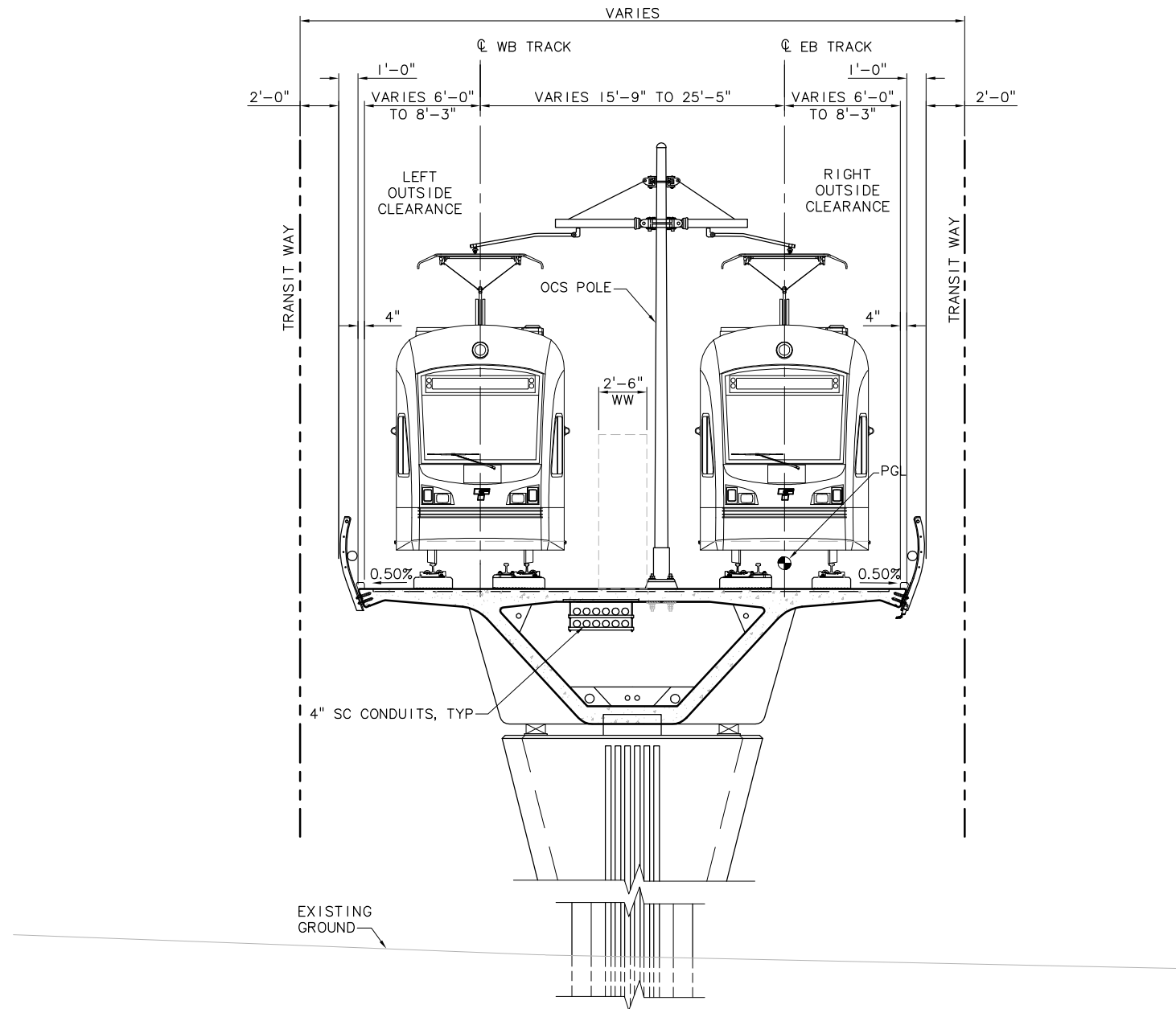
Kellogg Bridge

Concrete Tubs

ATTACHMENT 2

NOTES:

1. SEE SYSTEMS PLANS FOR OCS POLE AND DUCTBANK LOCATIONS.
2. SEE RIGHT OF WAY PLANS FOR LIMITS OF PROPOSED RIGHT OF WAY.
3. SEE ROADWAY MODIFICATION PLANS, PROFILES AND TYPICAL SECTIONS FOR LIMITS OF ROADWAY RECONSTRUCTION.
4. SEE TRACK PLAN AND PROFILE FOR PROPOSED LRT LOCATION.
5. SEE STRUCTURAL PLANS FOR STRUCTURAL DESIGN DETAILS AND LOCATIONS.
6. SEE ARCHITECTURAL PLANS FOR STATION, PARK AND RIDE, PEDESTRIAN PLAZA DETAILS AND LOCATIONS.
7. SEE UTILITY COMPOSITE PLANS FOR DRAINAGE AND UTILITY LOCATIONS.
8. FOR CROSSOVER LOCATION, SEE TRACK PLAN AND PROFILE.
9. FOR WATERPROOFING DETAILS, SEE TRACK DETAILS DWG L70-KD203.
10. FOR RESTRAINING RAIL LIMITS, SEE TRACK CHART DWGS.



DIRECT FIXATION, AERIAL STRUCTURE, DOUBLE TRACK

SCALE: NTS

LIMITS

EB 3238+92.42 TO EB 3247+64.14
 EB 3252+10.14 TO EB 3254+52.01
 EB 3270+42.21 TO EB 3274+01.91

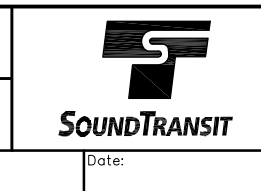
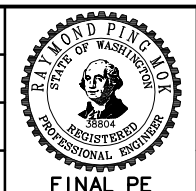
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 L70-KP208
 L70-KP209
 L70-KP211

DWG INFO:
 L7SCALE:
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 XREFS:
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 ZG-2234H
 -Overlay:
 REG-RPM
 SUB-INTR
 -Unresolved:

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No.	Date	Dsn.	Chk.	App.	Revisions

Designed By:
R. NACION
 Drawn By:
R. NACION
 Checked By:
A. LEONG
 Approved By:
R. MOK



Scale:
NTS
 Filename:
ELC_L70_KX214.dwg
 Contract No.:

LINK LIGHT RAIL PROJECT
 EAST CORRIDOR
 SEGMENT C - TUNNEL OPTION
 TYPICAL SECTION
 DIRECT FIXATION, AERIAL STRUCTURE

Drawing No.:
L70-KX214
 Sheet No.:
Rev.:

